

# THE FAMILY LAWS

OF

ISLAM

3

By

MUHAMMAD IQBAL SIDDIQI



## THE FAMILY LAWS OF ISLAM

The family is one of the key institutions of human society. The problems of material life are as much concern of Islam as those of the purification of soul and worship of Allah. Islam is a complete code of life which aims at the spiritual, political, economic and social development of the human society as a whole.

This book is not merely a book on the Islamic Law of Marriage but it also deals with other allied subjects such as Dower, Dowry, Divorce etc. The subject of marital rights and obligations has been dealt with in the light of the Holy Qur'an and the Sunnah. The comparative account of the law of marriage as practised among the various nations, especially the Christians and the Hindu, simultaneously carrying the texts of the original authorities, is particularly helpful in estimating the value of the Islamic principles of the law. At a time when the Muslim masses are blindly following the West in a mad pursuit of pleasure, and sex and sensuality are the order of the day, the study of this book will be a helpful guide towards the solution of a number of the present-day problems affecting the domestic peace and happiness of many a Muslim family home and in developing a better understanding of the Islamic family. It is hoped that the English speaking public will find herein an answer to almost every problem relating to marriage.

This book offers a detailed study of the Family Laws of Islam.



## CONTENTS

<b>INTRODUCTION</b>	...	1-5
<b>CHAPTER 1 Position of Women Under Different Civilizations and Religions</b>	...	6-13
Greek Civilization	...	6
Chinese Civilization	...	6
Hinduism	...	7
Buddhism	...	8
Judaism	...	9
Christianity	...	9
<b>CHAPTER 2 Islam and Women</b>	...	14-20
Condition of Women Before Islam	...	14
Status of Women in Islam	...	15
<b>CHAPTER 3 Is Marriage a Social Necessity ?</b>	...	21-27
Emancipation of Women	...	22
Practice of Paederasty	...	24
Right Path	...	24
<b>CHAPTER 4 Importance of Marriage in Islam</b>	...	28-32
Marriage Psychology	...	29
Objectives of Marriage	...	30
<b>CHAPTER 5 Equality Between the Sexes</b>	...	33-52
<b>CHAPTER 6 Institution of Marriage in Islam</b>	...	53-78
Benefits of Marriage :	...	57-59
Physical Benefits	...	57
Mental Benefits	...	57
Social Benefits	...	58



	Moral Benefits	...	58
	Spiritual Benefits	...	59
	Considerations in Marriage	...	59
	Prohibited Degree of Marriage		
	Relationship :	...	60-78
	Consanguinity	...	61
	Fosterage	...	63
	Affinity	...	64
	Marriage with two		
	Living Sisters	...	65
	Selection of a Life Partner	...	66
	Proposal of Marriage	...	67
	Age of Marriage	...	68
	Consent in Marriage	...	68
	Option of Puberty	...	70
	Marriage Guardian	...	71
	Attestation of Two		
	Witnesses	...	76
	Publicity of Marriage	...	77
CHAPTER 7	Dower and Dowry	...	79-87
	Amount of Dower	...	81
	Prompt and Deferred Dower	...	84
	Dowry	...	84
	Evil Practice	...	85
CHAPTER 8	Marriage Sermon (Khutaba) and Marriage Feast (Walima)	...	88-92
CHAPTER 9	Conjugal Sex Relations in Islam	...	93-104
	Sexual Intercourse	...	101
	Homosexuality	...	101
CHAPTER 10	Duties of a Husband	...	105-116
	To Award Dowry	...	106

	Maintenance	...	107
	Residence	...	109
	Treatment to Wives	...	109
	Equality Among Wives	...	115
CHAPTER 11	Duties of a Wife	...	117-122
	Guarding Husband's Rights	...	118
	Management of the Household Affairs	...	119
	Obedience	...	120
CHAPTER 12	Purdah	...	123-174
	Restraining the Eyes	...	125
	Participation in Battle	...	132
	Preventive Measures :	...	135-174
	Nudity and Covering of	...	
	Nakedness	...	135
	Satr	...	141
	Prohibition of Display of	...	
	Fineries	...	148
	The Veil	...	156
	Prohibition of Entering Houses	...	
	without Permission	...	163
	Peeping into the House	...	167
	Prohibition of Having Privacy	...	
	with Women	...	169
	Women are Forbidden to	...	
	Speak in a Soft Tone	...	170
	Use of Scents or Perfumes	...	172
CHAPTER 13	Marriage with the People of the Book	...	175-180
CHAPTER 14	Polygamy in Islam	...	181-192
CHAPTER 15	Nikah al-Mut'a	...	193-211



Mut'a and the Holy Qur'an	...	197
Mut'a and the Ahadith	...	203
<b>CHAPTER 16</b>	<b>Divorce</b>	... 212-243
	Principle of Divorce	... 216
	Procedure of Divorce	... 218
	Kinds of Divorce :	... 224
	Talaq Ahsan	... 224
	Talaq Hasan	... 224
	Talaq Bid'a	... 224
	Some other Forms of Divorce :	... 224-227
	Divorce by Writing	... 224
	Talaq by Li'an or Imprecation	... 224
	Divorce by Mubarat	... 227
	Incidents Following Divorce	... 227
	Charitable View of Divorce	... 228
	Dissolution of Marriage :	... 229-237
	Divorce by Khula'	... 229
	Conditions of Khula'	... 232
	Grounds for Demanding Khula'	... 235
	Other Causes of Dissolution of	
	Marriage :	... 237
	Apostasy	... 237
	Lack of Consent	... 237
	Marriage of a Minor	... 237
	Ila'	... 238
	Zihar	... 239
	Atonement for Zihar	... 240
	Tahlil or Halalah	... 241
<b>CHAPTER 17</b>	<b>Children</b>	... 244-253
	Kindness to Children	... 244
	In his Family	... 244
	Outside the Family	... 246
	To Infidels	... 246

Treatment of Adopted and Unlawful	
Children in Islam	... 247
Upbringing of Children	... 250
<b>CHAPTER 18</b>	<b>Traditions Regarding Marriage</b>
	... 254-261
One Who can Support a	
Wife should Marry	... 254
Things to be Sought in Marriage	... 255
Prohibited Degree of Marriage	... 255
Fosterage	... 255
Prohibition of Marrying the Step Daughter	
and the Wife's Sister	... 256
Prohibition of Making a Proposal	
when it has already been made	... 256
Sight of Bride and Bridegroom	... 256
Consent in Marriage	... 257
Marriage Guardian	... 257
Marriage Witnesses	... 258
Dower	... 258
Marriage Sermon	... 260
Marriage Feast	... 260
Proclamation of Marriage	... 260
Option of Puberty	... 261
Excellence of Marrying a Virgin	... 261
Pious Woman	... 262
Advice in Regard to Women	... 262
Purdah	... 262
Chastity	... 263
Prohibition of Divulging the	
Secrets of the Woman	... 264
Temporary Marriage	... 264
Prohibition of Contracting Shighar	
Marriage	... 264
Marriage with a Divorced Wife	... 264



Sexual Intercourse	... 265
Supplication at the Time of Sexual Intercourse	... 265
Disapproval of al-'Azl	... 266
Conjugal Rights of Husband	... 266
Divorce	... 266
Period of 'Idda	... 268

## BIBLIOGRAPHY

... 269

## INDEX

... 273

\*\*\*\*\*

## INTRODUCTION

Marriage is a social institution as old as the human race itself. It may be defined as a relation between a man and a woman which is recognised by custom or law and involves certain rights and obligations, both in the case of the parties entering the union, and in the case of the children born of it. Marriage has thus two main functions to perform: it is the means adopted by human society for regulating relations between the sexes; and it furnishes the mechanism by means of which the relations of a child to the community is determined.

Islam does not believe in the absolute suppression of the sensual side of human nature. The conception of the saintly life in Islam is not, therefore, the extermination of all carnal impulses, but to control them and keep them within proper limits. Islam does not make the life of an individual complete dark and dreary, devoid of all enjoyments of life. Islam encourages healthy enjoyments and one out of these is the satisfaction of the sexual desire. Islam does not associate the idea of sexual pleasure with that of sin and vice. Pleasure gives strength to the moral side of a man provided one does not transgress the limits of ethical code. Lecky says:

"Good humour, frankness, generosity, active courage, sanguine energy, buoyancy of temper are the usual and appropriate accompaniments of a vigorous animal temperament and they are as much more rarely found either in natures that are essentially feeble and effeminate, or in the natures which have been artificially emasculated



by penances, distorted from their original tendency, and habitually held under severe control."<sup>1</sup>

According to Islam, life is not a wretched prison or a dark grave, nor is it a happy hunting ground where one is absolutely free to hunt whatever one likes. It is life worth living provided one tries to live within proper moral limits. Thus in the ideal life of Islam there is no place for shifting the natural psychic impulses. Islam's approach to life is not negative—"a systematic letting die of all the propensities of life" which, in simple words, is called self-mortification. Islam exhorts its followers to live life with full zest and vigour. In other religions piety lies in denying oneself the relish of life, whereas in Islam piety is attained in throwing oneself resolutely and joyfully in the arms of life, but not be overpowered by its carnal temptations. Islam believes that there is nothing superfluous and nothing evil in human impulses. They are creative forces given to man provided they are properly made use of.

The monastic life which is considered to be an ideal life according to the wrong concept of religion is not the one required by Allah, because it makes a man emotionally selfish, much to the neglect of all social responsibilities. It hardens the heart and fosters the sense of ingratitude towards those who are bound to the so-called saints by the chords of the earthly ties. Mothers are abandoned; wives are neglected; and children are left alone as beggars to the mercies of the world. The ascetic is concerned with the salvation of his own soul. The serenity of his devotion is considered to be impaired by the discharge of the simplest duties to his family and to his community and state.

Marriage is an important institution of human life. Islam recognises this institution and accepts it as the basis of human society after purging it of all those evils which had penetrated it.

<sup>1</sup> Lecky, *History of European Morals*, Vol. II, p. 124

Firstly, Islam does not regard it as a union only for the gratification of sexual lust, but a social contract with wide and varied responsibilities and duties. The reason behind it is that, according to the Divine Faith, a woman is not a plaything in the hand of man, but a spiritual and moral being who is entrusted to him on the sacred pledge to which Allah is made a witness. The wife is, therefore, not meant to provide sensuous pleasure only to the male, but to fully cooperate with him in making the life of the family and ultimately of the whole humanity significantly meaningful.

The Holy Qur'an has in so many verses pointed out the different purposes of marriage. It states:

"And of His signs is that He has created wives for you from yourselves that you might find quiet of mind in them, and He put between you love and affection."  
(30:21)

In this verse it has been said that the female is not inferior to the male in the sense that the former is created out of a superior stuff while the latter comes of a base origin. Both man and woman are the progeny of Adam and thus both have the same soul. The purpose of marriage, according to the Holy Qur'an is, therefore, the union of the two souls which are one in essence. Their separate existence is an unnatural state of their being which changes into the natural state when they are united by marriage and thus are brought close to each other physically, mentally and emotionally.

Both men and women are the joint heirs of the grace of life, and unless there is a very close and intimate form of companionship in them they cannot enjoy the true grace of life. The Holy Qur'an says:

"He it is Who created you from a single soul, and of the same did He make his spouse, that he might find comfort in her." (7:189)



by penances, distorted from their original tendency, and habitually held under severe control."<sup>1</sup>

According to Islam, life is not a wretched prison or a dark grave, nor is it a happy hunting ground where one is absolutely free to hunt whatever one likes. It is life worth living provided one tries to live within proper moral limits. Thus in the ideal life of Islam there is no place for shifting the natural psychic impulses. Islam's approach to life is not negative—"a systematic letting die of all the propensities of life" which, in simple words, is called self-mortification. Islam exhorts its followers to live life with full zest and vigour. In other religions piety lies in denying oneself the relish of life, whereas in Islam piety is attained in throwing oneself resolutely and joyfully in the arms of life, but not be overpowered by its carnal temptations. Islam believes that there is nothing superfluous and nothing evil in human impulses. They are creative forces given to man provided they are properly made use of.

The monastic life which is considered to be an ideal life according to the wrong concept of religion is not the one required by Allah, because it makes a man emotionally selfish, much to the neglect of all social responsibilities. It harden the heart and fosters the sense of ingratitude towards those who are bound to the so-called saints by the chords of the earthly ties. Mothers are abandoned; wives are neglected; and children are left alone as beggars to the mercies of the world. The ascetic is concerned with the salvation of his own soul. The serenity of his devotion is considered to be impaired by the discharge of the simplest duties to his family and to his community and state.

Marriage is an important institution of human life. Islam recognises this institution and accepts it as the basis of human society after purging it of all those evils which had penetrated it.

1 Lecky, *History of European Morals*, Vol. II, p. 124

Firstly, Islam does not regard it as a union only for the gratification of sexual lust, but a social contract with wide and varied responsibilities and duties. The reason behind it is that, according to the Divine Faith, a woman is not a plaything in the hand of man, but a spiritual and moral being who is entrusted to him on the sacred pledge to which Allah is made a witness. The wife is, therefore, not meant to provide sensuous pleasure only to the male, but to fully cooperate with him in making the life of the family and ultimately of the whole humanity significantly meaningful.

The Holy Qur'an has in so many verses pointed out the different purposes of marriage. It states:

"And of His signs is that He has created wives for you from yourselves that you might find quiet of mind in them, and He put between you love and affection."  
(30:21)

In this verse it has been said that the female is not inferior to the male in the sense that the former is created out of a superior stuff while the latter comes of a base origin. Both man and woman are the progeny of Adam and thus both have the same soul. The purpose of marriage, according to the Holy Qur'an is, therefore, the union of the two souls which are one in essence. Their separate existence is an unnatural state of their being which changes into the natural state when they are united by marriage and thus are brought close to each other physically, mentally and emotionally.

Both men and women are the joint heirs of the grace of life, and unless there is a very close and intimate form of companionship in them they cannot enjoy the true grace of life. The Holy Qur'an says:

"He it is Who created you from a single soul, and of the same did He make his spouse, that he might find comfort in her." (7:189)



"Comfort" implies much more than a mere sexual gratification. It is not too much to say that the whole conception of the marriage relation in Islam is charged with spiritual and moral ideas, and must of necessity elevate the status of matrimonial alliance in the individual and social life.

In Islam the union of the sexes has been purified and the joy of the married relation secured by the absolute prohibition of every kind of extra-matrimonial connection. The Holy Qur'an stresses upon the people to marry as it is the most effective means whereby one can lead a virtuous life free from immorality and emotional inhibition. The Holy Qur'an says:

"They (your wives) are as a garment to you, and you as a garment to them." (2:187)

The mutual relation of husband and wife is here described in words which cannot be surpassed in beauty. Herein is the correct description of the relationship between the two. The husband and the wife are for mutual support, mutual comfort and mutual protection, fitting into each other as garments fit into each other. The well-known Scholar of Islam Mr. Khurshid Ahmad writes in his book entitled *Family Life in Islam*:

"The relationship between husband and wife is a spiritual relationship and sustains and generates love, kindness, mercy, compassion, mutual confidence, self-sacrifice, solace and succour.

In marriage companionship, each partner seeks ever-increasing fulfilment. With children in the family, the values of fellow feeling, of love and compassion, of sacrifice for others, of tolerance and kindness, are translated into reality and imparted in character. It is the family that provides the most congenial climate for the development and fulfilment of human personality."

Marriage engenders love at first for wife, then for children, then for kith and kin, then for the society and

ultimately for the human race as a whole. The real unit of human civilization is the family and there can be no family if there is no marriage.

This book is not merely a book on the Islamic Law of Marriage but it also deals with other allied subjects such as Dower, Dowry, Divorce etc. The subject of marital rights and obligations has been dealt with in the light of the Holy Qur'an and the Sunnah. The comparative account of the law of marriage as practised among the various nations, particularly the Christians and the Hindu, simultaneously carrying the texts of the original authorities, is particularly helpful in estimating the value of the Islamic principles of the law. At a time when the Muslim masses are blindly following the West in a mad pursuit of pleasure, and sex and sensuality are the order of the day, the study of this book will be a helpful guide towards the solution of a number of the present-day problems affecting the domestic peace and happiness of many a Muslim family home and in developing a better understanding of the Islamic family. It is hoped that the English speaking public will find herein an answer to almost every problem relating to marriage.

In writing this book I have consulted the works of many Muslim Scholars. I have referred to all these Writers in the Bibliography from whose works I have received valuable assistance. To these Scholars I am highly indebted, a debt which one acknowledges with both pleasure and pride.

I am fully conscious of my shortcomings and pray that someone with a more brilliant pen and a more copious knowledge may come forward and give the subject a scholarly treatment.

In the end, I must not forget to record my obligations to my younger brother Prof. Muhammad Ikram Siddiqi for bringing out the book in a beautiful form.

MUHAMMAD IQBAL SIDDIQI



## CHAPTER

### POSITION OF WOMEN UNDER DIFFERENT CIVILIZATIONS AND RELIGIONS

Before discussing the Islamic conception of womanhood, it would be worthwhile to have a glimpse at other religions regarding her position and importance.

**Greek Civilization:** Starting with Greek civilization, perhaps the oldest in the world, the conception of woman can be summed up in the words of Socrates. He says:

“Woman is the greatest source of chaos and disruption in the world. She is like the *dafali* tree which outwardly looks very beautiful but if sparrows eat it they die without fail.”

Anderosky gives the Greek conception of woman in the following words:

“Cure is possible for fire-burnt and snake-bite but is impossible to arrest woman’s subtlety.”

**Chinese Civilization:** In Chinese scripture women have been called the “Waters of Woe” that wash away all good fortune. In Chinese life the woman had always been regarded as inferior to man and she had no rights whatsoever. A woman was regarded eternally a minor—her very children not

[7]

properly belonging to her. A man could, whenever he pleased, repudiate his wife: he could sell his wife as a concubine. After widowhood she remained the property of her husband’s family and it was almost impossible for her to remarry. With all this went slavery and infanticide.

**Hinduism:** Woman met a similar fate in Hinduism. And the doctrine of Niyog is in fact a brutal insult to womanhood and must excite the indignation of all those who desire the progress of morality as also of many honest thinkers even from among the Hindus. It shocks one to hear the advocates of the Niyog telling men that in the absence of a male offspring the wife should pollute herself with a stranger, so that haply she may give birth to a son. No chaste woman would ever bear such insult.

The *Asura* form of marriage among the ancient Hindus was nothing but a kind of sale of the daughter by the father. Legislation has hardly saved them from cruel hands, as they never inherited any property. In India at early times (and even now in certain parts) girls were dedicated to god rather given in actual marriage to them, so that they may have the use of their services in the same way as married had the use of their wives. Thus indirectly they passed into the control of priests and *dharmakarthis* or trustees attached to the temple on the same principle on which offerings dedicated to the god became available to them. The women were also considered host of the prerequisite of priests and officials. Women in Vedic times were treated as prizes of war. After victory women were forcibly abducted and distributed as an article of booty.

In those days, as now, a Hindu marriage was indissoluble. Neither adultery nor prostitution nor degeneration could ever dissolve a Hindu marriage. What to say in life, even after death of the husband widows could not claim separation. The cruel rite of *Sati* was practised by which the widow of



a Hindu used to burn herself on the pyre of her husband. The widow was and is still looked upon as something loathsome, inauspicious, and fit to be shunned. The status of those widows who did not perform *Sati* was so disgraceful that the poor souls considered it much better to be burnt alive than bearing long and inhuman torture at the hands of a cruel and unsympathetic society.

Professor Indra in her book *Status of Women in Mahabharata* writes:

"There is no creature more sinful than woman. Woman is burning fire. She is the sharp edge of a razor. She is verily all these in a body. Men should not love them."

In Hinduism, according to the ordinance Manu:

"A woman must never seek independence and must never do anything according to her mere pleasure."

The Law of Hinduism is:

"By a girl, by a young woman, or even by an aged one nothing must be done independently even in her own house."<sup>1</sup>

"In childhood a female must be subjected to her father, in youth to her husband, when her lord is dead, to her sons; a woman must never be independent."<sup>2</sup>

Sir R. G. Bhandarkar comments:

"The *Bhagvad Geeta* gives expression to the general belief that it is only a sinful soul that is born as woman."

**Buddhism:** As regards Buddhism, the teaching that *Nirvana* (Salvation) cannot be attained in the company of woman is sufficiently eloquent to give us a clue to its attitude towards this sex. Mr. U. May Oung writes:

1 *Manu*, V. 147

2 *Manu*, V. 140

"The idea of a wedlock and its attendant worldly life is opposed to the ultimate end of Buddhism—annihilation of desire . . . . . the striving for which must necessarily involve celibacy."

To a follower of Buddhism, therefore, according to the celebrated historian Westermarck:

"Women are, of all the snares which the tempter has spread for men, the most dangerous; in women are embodied all the powers of infatuation which blind the mind of the world."

The conception of woman in Buddhism is summed up in the words of a renowned Buddhist Scholar recorded by Bettany in his *World's Religions* in the following words:

"Unfathomably deep, like a fish's course in the water, is the character of woman, robed with many artifices, with whom truth is hard to find, to whom a lie is like the truth and the truth is like a lie."

**Judaism:** In Judaism, according to Hebrew Scriptures, the woman is under an eternal Divine Curse. "Of the woman came the beginning sin and through her we all die", is a belief which holds poor woman responsible for all the wickedness of man. Hence her degradation in Jewish Society, where she was considered not as a creature worthy of honour but as one who could be deservedly subjected to any amount of insults, and reduced to the position of a mere chattel in the house.

**Christianity:** To come to Christianity the whole structure of the Christian creed is based on the doctrine of Original Sin for which Christianity holds woman responsible:

"The woman whom thou gavest to be with me, she gave me of the tree and I did eat." (Gen., 3:12)



Eve first committed the sin and caused the fall of Adam: thus actually she was responsible for the sins of humanity and God had to send His "only begotten son", Jesus Christ, to be crucified and to wash off the sins of humanity with his blood! This is the summary of the Christian faith.

A few quotations taken from the New Testament are reproduced below which alone are sufficient to show what woman in Christianity is, and how she should be shunned by those who are candidates to the Kingdom of Heaven:

"For, behold, the days are coming, in which they shall say, Blessed are the barren, and the wombs that never bare, and the paps which never gave suck." (Luke, 23:29)

"It is good for a man not to touch a woman."  
(Corinthians, 7:1)

"For I would that all men were even as I myself (i.e. unmarried). . . . I say therefore to the unmarried and widows: It is good for them if they abide even as I (i.e. unmarried). But if they cannot contain, let them marry: for it is better to marry than to burn."

"Art thou loosed from a wife?  
Seek not a wife." (Cor. 7:27)

"He that is unmarried careth for the things that belong to the Lord, how he may please the Lord: But he that is married careth for the things that are of the world, how he may please his wife." (Cor. 7:32, 33)

"He that giveth her not in marriage, doeth better." (Cor. 7:38)

St. Paul, the premier saint of Christendom, proclaims:

"Let the woman learn in silence with all subjection. But I suffer not a woman to teach, nor to usurp authority over the man, but to be in silence. For Adam was first formed then Eve. And Adam was not deceived but the woman being deceived was in transgress."

St. Tertullian says:

"Do you know that each of you (woman) is an Eve; the sentence of God on this sex of yours lives in this age; the guilt must necessarily live too; you are the devil's gateway; you are the unsealer of that tree; you are the first deserter of the Divine Law; you are she who persuaded him when the devil was not valiant enough to attack. You destroyed so easily God's image in man. On account of your desert, that is, death even the son of God had to die." (*de Coltu Feminarum*)

St. Gregory Thaumaturgus says:

"Among all men, I sought for Chastity proper to them, and I found it among none. And, verily, a person may find one man chaste among a thousand, but among women never."

According to St. Gregory of Nazianzum:

"Fierce is the dragon, and cunning the asp; but woman has the malice of both."

St. John Chrysostom says:

"A woman is a necessary evil, a desirable calamity, a deadly fascinator, and a painted ill."

In the eyes of St. Clement of Alexandria:

"Nothing disgraceful is proper for man, who is endowed with reason; much less for woman, to whom it brings shame to reflect of what nature she is."

In fact, the builders of the Christian Church, as the early Fathers might be called, all vied in their denunciation of woman. She was described as "the organ of the Devil", "the foundation of the arms of Devil, whose voice is the hissing of the serpents", "a scorpion ever ready to sting, and the lance of the demon", "an instrument which the Devil uses to gain possession of our souls", "the gate of the Devil", "the road of iniquity, the sting of the scorpion", "an unclean



thing", "a daughter of falsehood, a sentinel of Hell, the enemy of peace, (and) of the wild beasts the most dangerous", by St. Bernard, St. Anthony, St. Bonaventure, St. Cyprian, St. Jerome, and St. John Damascene, respectively.

The orthodox Greek Church denied that woman had a soul. At the Council of Macon a Bishop vehemently asserted that woman did not belong to the human species.<sup>1</sup>

The position of woman in the Dark Ages—the Christian period—is summed up by Lecky in *The History of European Morals*. He says:

"The writers of the Middle Ages are full of the accounts of nunneries that were like brothels, of the vast multitude of infanticides within their walls and of that inveterate prevalence of incest among the clergy which rendered it necessary again and again to issue most stringent enactments that priests should not be permitted to live with their mothers and sisters.

In his first *Epistle to Timothy*, St. Paul writes:

"I desire that women should adorn themselves modestly and sensibly in seemly apparel, not with braided hair or gold or pearls or costly attire but by good deeds, as befits women who profess religion. Let a woman learn in silence with all submissiveness. I permit no woman to teach or to have authority over men; she is to keep silent. For Adam was formed first, then Eve, and Adam was not deceived, but the woman was deceived and became a transgressor."<sup>2</sup>

In his *Epistle to Ephesians*, St. Paul said:

"Wives, be subject to your husbands, as to the Lord. For the husband is the head of the wife as Christ is the head of the Church, his body, and is himself its Saviour.

1 Westermarck, p. 663

2 *First Epistle to Timothy*, St. Paul I; Timothy 2: 9-14, The New Testament, Revised Standard version (New York, Thomas Nelson and Sons, 1901)

As the Church is subject to Christ, so let wives also be subject in everything to their husbands."<sup>1</sup>

The emphasis of the early Christian church on asceticism may have contributed to the tendency to degrade the position of women. The famous historian Lecky writes:

"The combined influence of the Jewish writings and of that ascetic feeling which treated women as the chief source of temptation to man, was shown in those fierce incentives which form so conspicuous and so grotesque a portion of the writings of the Fathers, and which contrast so curiously with the adulation bestowed upon particular members of the sex. Woman was represented as the door of hell, as the mother of all human ills. She should be ashamed at the very thought that she is a woman."<sup>2</sup>

Lecky goes on to describe how this teaching had its part in determining the principle of legislation concerning women and whereas there had been a tendency under Roman Law to grant women more rights this tendency was reversed and "in the whole feudal legislation women were placed in a much lower legal position than in the Pagan Empire."<sup>3</sup>

Thus it is readily apparent that the attitude of early Western Christianity towards woman was that she was inferior to man, sinful and evil.

1 *Epistle to the Ephesians*, St. Paul: Ephesians 5: 22-24, New Testament

2 Lecky, W.E.H., *History of European Morals*, Vol. II, p. 338

3 Lecky, W.E.H., *History of European Morals*, Vol. II, p. 338



## CHAPTER 2

## ISLAM AND WOMEN

**Conditions of Women Before Islam:** Before the advent of Islam the condition of women was highly miserable throughout the world. No religion allowed them equality. No religion gave them a share in the property of their parents or husbands. Woman was looked upon as evil and an unwanted burden, a source of disgrace and humiliation to the family. Women were universally treated as chattels. Their own consent in anything was considered immaterial. In fact, they were never viewed as a party to the marriage. They could be had at pleasure and discarded most capriciously; only the heart and purse could lay limitations. They had no independent status, could own no property, were given no rights of inheritance. In Arabia particularly, immediately before Islam, their plight was most miserable. They were not regarded as human beings; women stood somewhere between the animal world and man. In pre-Islamic Arabia daughters were considered expendable and female infants were often buried alive. The education of women was neglected. Women were ill-treated and commanded little respect for the most part. Unrestricted polygamy was the order of the day and women could be divorced at the whim and pleasure of their husbands. Concubinage and slavery were the recognised social institutions.

It was Islam that, for the first time, vindicated the rights of women and gave them a status unknown, unthought of even to this day. The practice of infanticide was abandoned. Women as well as men were urged to acquire learning. They were granted all the fundamental rights. They were given the right of inheritance of the property of their father, mother, husband and brother. As regards marriage and divorce, they have got fair liberty. Islam has removed various domestic and conjugal handships of the women by prohibiting the unlimited polygamy prevalent in those days. In short, Islam has made adequate provisions for preparing the women as equal partners of men. There is no other religion in the world that favours women so much as Islam. It raised her from the lowest status to equality with men.

**Status of Women in Islam:** Having seen how cruelly woman was treated and mercilessly exploited by different religions and secular cultures of the world, it will now be possible for us to understand correctly the glorious achievements of Islam in this direction.

Islam removed the stigma of "wickedness" and "impurity" which the other religions of the world had placed upon woman. Man and woman, it proclaimed, had both come from the same essence, and therefore, if woman could be said to be wicked, man also should be regarded as such, or if man had a single spark of nobility in him, woman also should have it. "Women", declared the Messenger of Allah (peace and blessings of Allah be upon him) "are the twin-halves of men." The Holy Qur'an says:

"O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women. Be careful of your duty toward Allah in Whom you claim (your rights) of one another, and towards the wombs (that bear you). Lo! Allah hath been a Watcher over you." (4:1)



## CHAPTER 2

## ISLAM AND WOMEN

**Conditions of Women Before Islam:** Before the advent of Islam the condition of women was highly miserable throughout the world. No religion allowed them equality. No religion gave them a share in the property of their parents or husbands. Woman was looked upon as evil and an unwanted burden, a source of disgrace and humiliation to the family. Women were universally treated as chattels. Their own consent in anything was considered immaterial. In fact, they were never viewed as a party to the marriage. They could be had at pleasure and discarded most capriciously; only the heart and purse could lay limitations. They had no independent status, could own no property, were given no rights of inheritance. In Arabia particularly, immediately before Islam, their plight was most miserable. They were not regarded as human beings; women stood somewhere between the animal world and man. In pre-Islamic Arabia daughters were considered expendable and female infants were often buried alive. The education of women was neglected. Women were ill-treated and commanded little respect for the most part. Unrestricted polygamy was the order of the day and women could be divorced at the whim and pleasure of their husbands. Concubinage and slavery were the recognised social institutions.

It was Islam that, for the first time, vindicated the rights of women and gave them a status unknown, unthought of even to this day. The practice of infanticide was abandoned. Women as well as men were urged to acquire learning. They were granted all the fundamental rights. They were given the right of inheritance of the property of their father, mother, husband and brother. As regards marriage and divorce, they have got fair liberty. Islam has removed various domestic and conjugal handships of the women by prohibiting the unlimited polygamy prevalent in those days. In short, Islam has made adequate provisions for preparing the women as equal partners of men. There is no other religion in the world that favours women so much as Islam. It raised her from the lowest status to equality with men.

**Status of Women in Islam:** Having seen how cruelly woman was treated and mercilessly exploited by different religions and secular cultures of the world, it will now be possible for us to understand correctly the glorious achievements of Islam in this direction.

Islam removed the stigma of "wickedness" and "impurity" which the other religions of the world had placed upon woman. Man and woman, it proclaimed, had both come from the same essence, and therefore, if woman could be said to be wicked, man also should be regarded as such, or if man had a single spark of nobility in him, woman also should have it. "Women", declared the Messenger of Allah (peace and blessings of Allah be upon him) "are the twin-halves of men." The Holy Qur'an says:

"O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women. Be careful of your duty toward Allah in Whom you claim (your rights) of one another, and towards the wombs (that bear you). Lo! Allah hath been a Watcher over you." (4:1)



"And Allah hath given you wives of your own kind."  
(16:72)

Islam refuted the Biblical assertion that the woman was first deceived and she was, therefore, responsible for the Fall of Adam. It declared in the most unambiguous terms that Adam and Eve were deceived simultaneously and were, therefore, equally responsible for the deed. The Holy Qur'an says:

"And We said: O' Adam! dwell thou and thy wife in the Garden and eat ye (both) freely (of the fruits) thereof where ye will; but come not nigh this tree lest ye become wrongdoers.

But Satan caused them (both) to deflect therefrom and expelled them from the (happy) state in which they were." (2:35, 36)

In contrast to the view of Christianity: "Neither was man created for the woman, nor the woman for the man", Islam proclaimed:

"The women are raiment for you (men) and ye are raiment for them." (2:187)

The concept that man is dominant over woman is retained in Islam but the gap between the two sexes has been narrowed. The Holy Qur'an says:

"And they (women) have rights similar to those (of men) over them in kindness, and men are a degree above them—Allah is Mighty, Wise." (2:228)

The only difference it makes is in the realm of physical conditions, and this difference is based on hard facts. It believes in the principle of the division of labour. It allots the strenuous work and the rough outdoor life to man and makes him responsible for the maintenance of the family. It regards home as the first concern of woman. It allots the work of managing the home and upbringing and training of

children to women, a work which forms the most important item in the task of nation-building. It exhorts her to engage herself in the cultivation of learning and allows her to participate, if necessary, in social uplift and other schemes of national reconstruction. The life of the office and factory, it considers as uncongenial and unnatural for her, and is emphatic in its demands that woman should in no case step into the shoes of man, nor should man encroach upon her sphere of activity. Both should work in a spirit of harmony, sympathy, and love.

Further, there is the problem of vesting the ultimate authority in the administration of the affairs of the family. It is a fact that sound administration is impossible without a unitary policy. In a Muslim family, so far as honour is concerned, Islam has ordered to honour the mother more than the father, the sister more than the brother and the daughter more than the son. But, as regards administration, that is, in the case of the husband and wife, the final authority is vested in the husband who is also held responsible for looking after the comfort of the wife, and who cannot use his power for doing any injury to her, except at the risk of losing the favours of Allah, because the wife is not his subordinate but in the words of the Messenger of Allah (peace and blessings of Allah be upon him), "the queen of her home".

Through Islam woman gained legal rights she did not formerly possess in pre-Islamic Arabia and which women in the West acquired only many centuries later. Pierre Crabites, an American Judge who was familiar with Muslim Law, wrote:

"Muhammad was probably the greatest Champion of women's rights the world has ever seen. Islam conferred upon the Muslim wife property rights exactly the same as her husband. She is free to dispose and manage her



financial assets as she pleases without let or hindrance from her husband."<sup>1</sup>

Women were given a share of inheritance from parents and near kindred. The Holy Qur'an says:

"Unto the men (of a family) belongeth a share of that which parents and near kindred leave, and up to the women a share of that which parents and near kindred leave, whether it be little or much—a legal share."  
(4:7)

In pre-Islamic days a step son or brother took possession of a dead man's widow or widows along with his goods and chattels. This practice was condemned by Islam. The Holy Qur'an says:

"O ye who believe! It is not lawful for you forcibly to inherit the women." (4:19)

Some concept of Islamic attitudes towards women may be gained from the following Verses of the Holy Qur'an. It is stated:

"He has put love and mercy between your (hearts)."  
(30:21)

According to the Prophet Muhammad (peace and blessings of Allah be upon him) woman was not "an organ of the Devil" but *Muhsanah*—a fortress against Satan. He gave the most honourable position to mothers when he said: "Paradise lies under the feet of the mother." As regards daughters, "Whoever befriendeth three daughters, or three sisters and teacheth them manners, and is affectionate to them, till they come of age, may Allah apportion Paradise for him. With regard to wives, "A virtuous wife is a man's best treasure", and "the most perfect of the believers in faith is the best of them in moral excellence and the best

<sup>1</sup> Judge Pierre Crabites, *Things Muhammad Did for Women* (Magazine Asia, U.S.A., 1927)

of you are the kindest of you to their wives." Thus Islam improved women's lot immeasurably and conferred upon her rights and privileges not enjoyed by her contemporary Christian counterpart.

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) enjoined the acquisition of knowledge equally on women and men by his order: "The acquisition of knowledge is incumbent upon every Muslim man and every Muslim woman." (*Ibn Majah*)

The matrimonial union of man and woman had been viewed with disapproval and had been regarded as derogatory to man in certain religions. But the Messenger of Allah (peace and blessings of Allah be upon him) laid it down once for all:

"Marriage is of my ways and whoever disinclines from my ways is not from me (i.e. is not my followers)."  
(*Bukhari, Muslim*)

"When man has married, he has completed one-half of his faith." (*Baihaqi*)

He inculcated respect for women in these words:

"Allah commands us to treat women gently, for they are our mothers, daughters and aunts."

"The world and all things in the world are precious but the most precious thing in the world is a virtuous woman." (*Muslim*)

He bade his followers to behave most humanely towards their wives:

"The best of you are they who behave best to their wives." (*Tirmidhi*)

"A Muslim must not hate his wife, and if he be displeased with one bad quality in her, then let him be pleased with one that is good."



"The more civil and kind a Muslim is to his wife, the more perfect of faith he is." (*Tirmidhi*)

"When a woman observes the five times' prayers, and fasts in the month of Ramadan, and is chaste, and is not disobedient to her husband, then tell her to enter Paradise by whichever door she likes."

Before the advent of Holy Prophet Muhammad (peace and blessings of Allah be upon him) woman did not enjoy position independent of man. In Islam woman is an independent personality. She can enter into business, make contract or testament in her own name. She is entitled to inherit, as mother, wife, sister, and daughter, a thing unknown in any other religion, civilization or legislation.

She was also given an independent position as regards the right of owning wealth:

"Unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned (Envy not one another) but ask Allah of His bounty. Lo! Allah is ever Knower of all things." (4:32)

"Unto the men (of a family) belongeth a share of that which parents and near kindred leave, and up to the women a share of that which parents and near kindred leave, whether it be little or much — a legal share." (4:7)

\*\*\*\*\*

### CHAPTER 3

#### IS MARRIAGE A SOCIAL NECESSITY?

Man is not merely composed of a mass of flesh and a number of bones set together. He has a soul too in his body. But so do have other living organisms and plants. In this respect man, animals and plants stand at par. What distinguishes man from other species and genera is the type of soul he has in his body which others are totally devoid of.

A plant has a soul which may be termed as Botanical Soul (*Ruh-i-Nabati*) whereas an animal has *Ruh-i-Nabati* as well as *Ruh-i-Haiwani* (the Animal Soul). But man has been endowed with an additional trait of soul, besides the two types mentioned above, which is called the Human Soul (*Ruh-i-Insani*).

Botanical soul is manifested for instance, from the crop of hair man has over the surface of his body. Animal soul, the driving force of life, is strongly visible in the fury of his actions and perverted impulses such as his proneness to fight or inclination to kill, commission of suicide, expression of anger, pursuit in sexual indulgences and obscenity et cetera. Human Soul (*Ruh-i-Insani*), on the other hand, is one whose presence in man has made him excel all other beings, plants or animals. It is *par excellence* in its essence and gives



him mastery over everything on earth, rather in this world and in the Hereafter. It got him such epithets as *Homo Sapiens*, the Image of God, the Best of His creations or *Ashraful Makhluqat*. All good deeds and noble emotions such as love, sympathy, cooperation, desire for happy and peaceful living, acquisition of learning and knowledge, sagacity, wisdom, ratiocination, meaningful articulation, cheerful expression et cetera emanate from the Human Soul.

It keeps the reins of Botanical and the Animal Souls in full control. Its grip is never let loose by man lest he may be called a beast (animal) in the garb of man. A man is human being only when he makes use of the Human Soul.

Modern civilization is being infested by two noxious weevils:

- (1) Sexuality, and
- (2) Wealth.

They are interdependent and go hand in hand together. Where there is concentration of wealth, besides other things, moral laxity comes in to play. Western Societies of today may be cited as an example for the purpose.

Sexuality has many accompanying evil practices which instead of improving conditions cause to encourage it further. For instance there is a brisk movement among Western countries expounding emancipation of women. The target and field of activity of this movement are mostly the under-developed and developing countries because the Western countries are already tasting the bitter fruits of their perversion. They want to spread their infestation to other areas.

**Emancipation of Women:** 'Emancipation' here implies freedom from parental as well as marital bondages. Married women revolt against their husbands whereas girls are

reluctant to marry at all. They either stay unmarried for the whole life or marry very late under some expediency. This sort of life has become in most cases, fashion, if not compulsion.

Marriage in the West may be a virtual bondage because it is unbreakable there. If the attitude of a husband is not amiable he really becomes unbearable to his consort. She cannot, however, get rid of him. In that case the slogan, of 'Emancipation of Women', inspiring revulsion against the allegiance to husbands, is understandable. But among those Western Societies where dissolution of marriage is permissible the slogan of Emancipation has caused equal havoc. In both the Societies women have become quite free and liberal. They are at liberty to stay or leave the house of their parents or husbands whenever they feel so. They can meet and go with any person of their choice. No one can forbid them. A boy friend carries more importance than the parents or the husband. In fact too much liberty has made them libertine. For it is an established concept among boys and girls in Europe today that they had come into existence by accident and that they would not be born again so they should enjoy life to the utmost.

Too much liberty enjoyed by Western women has produced the following reactions:

1. Women go out to their jobs while their husbands stay at home looking after their household kitchen and children;
2. Most of the women behave with their husbands with arrogance and scorn, as if they were most detestable creatures.

Being fed up with this state of affair, the husbands, too, have recently taken out a procession on the road in London with playcards, containing slogans as 'Save us from the Tyranny of our Wives.'



**Practice of Paederasty:** Worst of all reactions, an abominable movement has gained wide momentum in the United Kingdom and secured ecclesiastical sanction through the Church of England under which a male person can marry another male person and they can live together as husband and wife, thus getting rid of womenkind altogether.

Men and women, in this way, have decided to lay down their human soul in order to lead a perverted life dominated and controlled by the animal soul. The impact of such perversions on society needs no over-emphasis.

The so-called movement for 'Emancipation of Women' and the practice of paederasty, however sanctimoniously solemnised, destroy the very foundation of human civilization and the family unit. There has not been a substitute for family life discovered so far. All other devices will be pretentious and unnatural. Only man and woman are the integral component of a family unit inextricably knit together by the great Planner, Allah. Anyone trying to breakaway from it shall invite wrath of Allah, like the one visited upon the people of Sodom and Gomorra (Genesis, 19:24). People of the Book must remember that.

**Right Path:** From the first appearance of man and woman on earth the Prophets of Allah have been guiding mankind from time to time to enable it tread upon the right path. They advised it to make full use of its human soul and behave properly as a dutiful and conscientious slave was expected to do. Sometimes these Prophets brought Allah's Messages in the form of Tablets (*Suhuf*) and sometimes in the form of Revealed Scriptures (*Kutub*). But it is the irony of fate that people not only forgot the divine lessons, they modified, amended and obliterated even the text of the original Messages brought by the Prophets. Such modifications in the text of previous Scriptures suiting to their (people's) whims and fancies are still being carried out from the time

immemorial. That is why the followers of Islam and the Last of the Prophets, the Holy Prophet Muhammad (peace and blessings of Allah be upon him) categorically declare that there is no Revealed Book today on earth in its original and intact form except the Holy Qur'an. The texts of all previous Books have been obliterated by alteration and vicissitude of time. The Holy Qur'an is the only Revealed Book which contains the original words of Allah, as descended upon Muhammad (peace and blessings of Allah be upon him). Not a word in the Holy Qur'an has since been changed, removed or obliterated and this state of its unimpairment will continue till Doomsday because it is the Last of the Revealed Books and the Prophet, on whom it was revealed fourteen hundred years ago, is the Last Prophet, Muhammad (peace and blessings of Allah be upon him). No other Prophet and no other Revealed Book will come again. Allah has categorically declared that in the Holy Qur'an:

"..... This day I have perfected My favour upon you and have chosen for you Islam as your religion." (5:4).

"Muhammad is not the father of any of your men, but (he is) the Apostle of Allah and the Last of the Prophets ..... (33:40).

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) said:

"I am the Last of the Prophets; there is no Prophet after me." (*Dawud, Tirmidhi*)

In short, Islam is the ruling religion of today as well as of the future. Humanity cannot evade it. It needs Islam because it contains the panacea of all evils of human society. The Western people have laid bare and thrown open their treasures (women) in the name of emancipation. They are now being picked up and freely used by those who lay hand upon them.



In such a nasty state of affairs Society needs reconstruction. The Holy Qur'an says:

"It is Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love). . . ." (7:189).

"And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your (hearts) . . . ." (30:21).

There is the mystery of opposite sex which runs through all creation whether it is man, animal or plant and in many other things also of which we have no knowledge. The negative and positive currents in electricity, or proton and electron of an atom, may be cited as instances. The Holy Qur'an says:

"Glory to Allah, Who created in pairs all things that the earth produces, as well as their own (human) kind and (other) things of which they have no knowledge." (36:36)

In this way it may be understandable that for the procreation and survival of mankind dwelling together of both man and woman is absolutely necessary. Adam's progeny cannot survive otherwise. There is no short cut or substitute of marriage. Marriage, therefore, is indispensable. The Holy Qur'an says:

"..... Marry women of your choice...." (4:3).

"Marry those among you who are single or the virtuous ones among your slaves, male or female. If they are in poverty, Allah will give them means out of His grace. For Allah encompasses all and He knows all things." (24:32).

Divorced men and women and also widowers and widows should not be left abandoned lest corruption, the natural consequence of the battering urge of animal soul, will become rampant in the society. They should be got married.

\*\*\*\*\*



#### CHAPTER 4

### IMPORTANCE OF MARRIAGE IN ISLAM

Unlike Christianity, which looked upon marriage as if it were a necessary evil, Islam regards it as a most sacred institution and makes it incumbent on every Muslim man and woman, unless prevented by valid physical or economic incapacity to lead a married life. The following traditions of the Messenger of Allah (peace and blessings of Allah be upon him) stress the importance of marriage :

It is necessary for you to marry, because marriage is the most powerful shield against the allurements of sight and the protection of your private parts; if one of you cannot afford it, let him fast because fasting weakens the sexual impulse.

The Messenger of Allah (peace and blessings of Allah be upon him) declared that marriage was one of his most sacred practices and added: "Whoever dislikes my way of life is not of me." (*Bukhari*).

A tradition reported by Anas (Allah be pleased with him) says, "When a man has got married he has made his religion half perfect. Then let him fear Allah for the remaining half." (*Baihaqi*).

The Qur'an exhorts the followers of Islam to enter into marriage with chaste women :

"(Then) marry of the women, who seem good to you." (4:3).

"Lawful unto you are all beyond those mentioned, so that ye seek them with your wealth in honest wedlock, not debauchery." (4:24).

"Ye (proceed) one from another, so wed them by permission of their folk, and give unto them their portions in kindness, they being honest, not debauched, nor of loose conduct." (5:25)

"This day are (all things) good and pure made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time, when ye give them their due dowers, and live with them in honour, not in fornication nor taking them as secret concubines." (5:5)

**Marriage Psychology:** A family is the basic unit which go to make a society. A family is maintained and preserved by a code of established law, the object of which is to secure marriage relationship against insecurity and instability. "Fear Allah" said the Messenger of Allah (peace and blessings of Allah be upon him) "with regard to women. You have a right over your women and they have a right over you." In the same vein we see the Messenger of Allah (peace and blessings of Allah be upon him) sounding a similar admonition to men thus, "Fear Allah about women for you (men) have taken hold of them as a trust from Allah and you have deemed their chastity lawful to you by the word of Allah."

"There are three essential elements in every normal marriage," says Dr. Westermarck: "the gratification of the sexual impulse, the relation between husband and wife apart



from it and procreation of children.'"<sup>1</sup> There is in Muslim Life not merely the objects of procreation and sexual gratification but also the hallowing of the instincts, that is, piety which being the third and significant object of marriage leading one to the attainment of what Muslim jurists call *Lazzab* (true pleasure) which subsists in the Paradise where there will be neither protection nor the bodily retention of the sperm.

Islam declares fornication unlawful and obliges both sexes of the human species to regularise their natural connection by a code which protects morality from obscenity and license and society from corruption. It is for this reason that the Holy Qur'an refers to *Nikah* (Marriage contract) by the word *Ahsan*. The word *Hasan* denotes 'a castle' and *Ahsan* means "to fortify."

The man who contracts marriage is *Mohsan*, i.e., one who builds the castle and the woman with whom marriage is contracted is *Mohsana*, that is, one who has entered the protection of the castle which has been erected in the form of *Nikah* for the safety of her person and morality.

**Objects of Marriage:** The first object of *Nikah* in Islam is to save morality and chastity and the foremost function of the Law of Matrimony is to strengthen the castle of marriage. The safeguarding of morality and chastity is of such an overriding importance that every other purpose may be sacrificed for its sake.

The second important object is that the marital relation between the two sexes of the human species should be based on love and kindness so that the social and cultural aims attached to marriage may be fulfilled by them in partnership and they may attain that peace, bliss and contentment in

<sup>1</sup> Dr. Westermarck, *The Future of Marriage in Western Civilization*

their matrimonial life which is an essential condition for their being healthy and well adjusted members of society. A consideration of the manner in which this object has been described in the Holy Qur'an reveals that the Islamic concept of Matrimony is synonymous with love and kindness, and marriage partners exist only to receive contentment from one another. The Holy Qur'an says:

"And among His Signs is this: that He created for you mates from among yourselves, that ye may dwell in tranquillity with them; And He has put love and mercy between your (hearts)" (30:21)

In *Sura Baqara* the concept of Matrimony is represented thus:

"They are your garments, And you are their garments." (2:187)

Here marriage partners are called the garments of one another. The garment stays close to the body of a person and conceals it and protects it from the ill-effects of outer environment. The use of this metaphor for marriage partners is intended to show that marital relation should be literally like the relation between the body and its garments. The hearts and souls of marriage partners should be approximate to one another, and they should protect one another from influences which might endanger their honour and morality.

Love and kindness is the soul of marital relationship. A marriage, without this soul, is a body without life. As long as marriage partners live together, they should do so in peace and tranquillity, love and harmony. But if they cannot do so, they would do well to separate with kindness.

The Holy Qur'an says:

"The (marriage) partners should either hold together on equitable terms or separate with kindness." (2:229)



In respect of wives, the Holy Qur'an orders:

"Either keep them on equitable terms or separate from them with kindness." (65:2)

Further it is enjoined:

"And do not forget liberality between yourselves." (2:237)

and:

"Live with them (your wives) on a footing of equity and kindness." (4:19).

\*\*\*\*\*

## CHAPTER 5

### EQUALITY BETWEEN THE SEXES

It is said that Islam, though it provides women with certain rights, privileges, fails in observing equality between the sexes. The idea that Islam observes a dual standard of morality, for men and women, is based on certain non-Islamic assumptions. As a general principle, the Holy Qur'an addresses itself to mankind as such and not to either one of the sexes in particular. Yet, in a social context, the Holy Qur'an and the Sunnah recognized man as head of the family. The Holy Qur'an says:

"Men are in charge of women, because Allah hath made the one of them to excel the other, and because they spend of their property (for the support of women). So good women are the obedient, guarding in secret that which Allah hath guarded." (4:34)

This does not mean that men have a license to exploit and abuse their authority. The Holy Qur'an is very particular about making men and women ethically equal in their duties and responsibilities. It is not that women are asked to be chaste and modest while men are absolved of safeguarding their chastity. In fact no other religion but Islam has observed one single standard of moral obligation for both the sexes. Justice and God-consciousness is the measuring rods for



uprightness and transcendence of one person over another. Justice does not mean mathematical equality, it is providing a person his or her due. Piety is the only characteristic that makes a believing man or woman select or chosen in the sight of Allah. The point of departure for secular systems is numerical equality among human beings, whether males or females. The point of departure for Islam is their moral value.

The Holy Qur'an says:

"Lo! men who surrender unto Allah, and women who surrender, and men who believe and women who believe, and men who obey and women who obey, and men who speak the truth and women who speak the truth, and men who persevere (in righteousness) and women who persevere, and men who are humble and women who are humble, and men who give alms and women who give alms, and men who fast and women who fast, and men who guard (their modesty) and women who guard (their modesty), and men who remember Allah much and women who remember Allah—Allah hath prepared for them forgiveness and a vast reward." (33:35-37)

Islam differentiates between the roles which men and women are expected to play. The fact of the matter is that not only Islam but any moral and just system ought to define roles of its individual members to facilitate a healthy and creative interaction in the members of a family. The exploitive systems may claim to have a mathematical equality between different constituent members of their societies. They do it because they treat human beings as instruments in a given mechanistic culture. Islam, being a just, moral and ethical system, recognizes empirical differences between the sexes but never uses these differences as measuring rod for their success. A transgression, whether done by a male or a female is a transgression and hence punishable.

In the Western Society equality between the sexes was taken to mean that man and the woman were not only equal in moral status and human rights, but that the woman was also free to undertake the same sort of jobs as were done by the man, and that moral restrictions on her needed to be slackened as they were for him. This wrong concept of equality led women astray and made them unmindful of their natural functions on the performance of which depends the very existence of human race and civilization. She became wholly absorbed in her economic, political and social pursuits. Her electioneering campaigns, service in offices and factories, competition with men for commercial and industrial vocations, sports and physical exercises, social entertainments, and her absorption in the club, stage and musical concerts, besides several other engagements, so overwhelmed her that she became utterly indifferent to the responsibilities of married life. The bringing up of children and the organization and care of the home ceased to be her special care. Besides, she developed an abhorrence for her natural duties, affecting ultimately the family system which is the basis of civilization. The result is that home life on which depends man's efficiency is fast disappearing in the West. The bond of marriage which is the practical form of man and woman's co-operation in the service and development of civilization is rapidly weakening. The increase in population is being checked by birth control, abortion and destruction of the offspring. The wrong concept of moral equality has come to establish immoral equality between the sexes. Those vicious and sinful acts which were once held shameful even for men, now do not bring any shame or disgrace on women.

As a fundamental of its system, Islam holds that woman is a human being; and she has a soul similar to that of man.



The Holy Qur'an says :

"O' people! Be careful of your duty to) your Lord, Who created you from a single being and created its mate of the same (kind) and spread from these too many men and women." (4:1)

Thus men and women are quite equal to each other in their origin, their abode as well as in their place of return and are as such entitled to similar and equal rights. Islam gave her the right to life, to honour, and to property like men. She is an honourable being and it is not permissible for any one to find fault with her or backbite her. No one is permitted to spy on her or hold her in contempt due to her functions as a woman. These are the rights that both men and women enjoy, there being no differentiation against either of them.

So none can deny the fact that as human beings man and woman are equal. Both make up the human race together as its equal constituent parts. Both are equal partners in building up community life, creating and bringing about civilization, and thus serving humanity. Both have been endowed with hearts, brains and reasoning power, and both possess feelings, desires and the other human instincts. Both stand in need of mental and intellectual training and education so that they may duly contribute to the happiness and welfare of society. In view of these facts the claim for equality is absolutely justified, and every good civilization is duty bound to afford its women also the opportunities along with men of developing these natural abilities. They should also be provided the facilities for educational advancement; they should also be given social and economic rights like men; and they should also be granted an honourable place in society so that they may also develop self-respect and thereby their latent human qualities. The nations which have denied their womenfolk this kind of equality, which have kept them ignorant and illiterate and which have deprived them of social rights, have ultimately themselves been doomed. For to debase and corrupt one-half of

humanity is to debase and corrupt the whole of humanity. How can wretched, uncultured, ignorant and illiterate mothers rear and bring up children who would turn out to be proud, cultured and enlightened human beings?

Men and women are also equal in their rights to realize their material needs in the world including similar rights to hold property and dispose of it as they should wish. They are free to mortgage it, to give it on lease, or bequeath it, sell or buy it or exploit it for his or her own benefit. The Holy Qur'an says:

"Unto the men belongeth a share of that which parents and near kindred leave, and unto the women a share of that which parents and near kindred leave." (4:7)

"And unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned." (4:32)

Islam occupies a unique position in that it recognized an independent economic status of woman and gave her the right to own, use and enjoy it in her own right without any intermediary trustee or mediator. Not only this but in the most important problem of her life *i.e.*, marriage as well her independent status was established. She could not be given in marriage without her consent; no marriage was valid unless she agreed to it. The Messenger of Allah (peace and blessings of Allah be upon him) said: No widow should be married without consulting her: and no virgin be married without her consent, and her consent is her silence.

(Bukhari and Muslim)

Again it was Islam that at a period when the entire world was lost in ignorance and darkness stressed the importance of knowledge for mankind, not as a special privilege of a particular class but as an essential and unavoidable need for each and every man. Islam made it obligatory upon Muslims to acquire knowledge as a necessary condition



to their being true believers in Allah and Islam. It also goes to the credit of Islam that it was the first religion that acknowledging a separate and independent human status of woman impressed upon her that she could not achieve perfection without knowledge. Acquisition of knowledge was as great a duty of woman as of man, for Islam wanted the women-folk to develop their rational faculties along with their physical ones and thus ascend to higher planes of spiritual existence, whilst on the other hand Europe did not even recognize any such right for woman till very recently and did in the end grant it to her only when compelled by the pressure of economic circumstances.

What we have said above is sufficient to confute the allegation that Islam accords woman only a secondary status or that she is treated as subservient to man or that her role in life is, in the eyes of Islam, of no importance at all. For if it had been so, Islam would not have attached so great an importance to the acquisition of knowledge for woman. That it did so goes to prove that Islam acknowledges an honourable and noble status for woman in life, in the sight of Allah as well as society.

But the other aspect of equality is that the man and the woman should have the same field of activity, that their activities should be similar, that they should have to shoulder equal responsibilities in all spheres of life, and that they should have identical positions in society. In support of this view it is said on the authority of scientific observation and experiment that man and woman are equipotential as regards their physical strength and ability. But their being equipotential in this respect is not a sufficient and strong enough basis for the claim that nature also requires them to have the same sorts of pursuits. For such a claim cannot be justified unless it is established that both man and woman possess identical physiological structures, that both have been entrusted with similar duties by nature, and endowed

with similar psychological dispositions. The scientific research that has been carried out so far does not lend support to any of these hypotheses.

Before we consider the point on which Islam differentiates between the sexes, let us first tackle the basic problem from the physiological, biological and psychological stand-points. After that we will take up the Islamic viewpoint.

It has been established by biological research that woman is quite different from man not only in her appearance and external physical organs but also in the protein molecules of tissue cells. From the time that sex formation of the foetus starts, the physiological structures of the two sexes begin to develop differently. The female physical system is evolved in order to bear and bring up children. It is to meet the requirements of this end that all physiological changes take place in the female body from infancy to maturity, and it is the demands of this very end that determine its future course of development also.

As soon as a girl attains maturity, menstruation starts affecting the functioning of all her physical organs. The investigations made by famous biologists and physiologists show that during menstruation a girl become easily irritable and furious and at times behaves in a silly and wild manner. Dr. Kraft Ebing writes:

"A woman who in her daily life may appear to be polite, polished and sweet-tempered, changes outright during menstruation. During the "low" period women have to pass through a terrible ordeal indeed. They become ill-tempered and quarrelsome. Servants, children and husbands complain of their quick-temperedness. Even strangers sometimes receive rude treatment at their hands."



to their being true believers in Allah and Islam. It also goes to the credit of Islam that it was the first religion that acknowledging a separate and independent human status of woman impressed upon her that she could not achieve perfection without knowledge. Acquisition of knowledge was as great a duty of woman as of man, for Islam wanted the women-folk to develop their rational faculties along with their physical ones and thus ascend to higher planes of spiritual existence, whilst on the other hand Europe did not even recognize any such right for woman till very recently and did in the end grant it to her only when compelled by the pressure of economic circumstances.

What we have said above is sufficient to confute the allegation that Islam accords woman only a secondary status or that she is treated as subservient to man or that her role in life is, in the eyes of Islam, of no importance at all. For if it had been so, Islam would not have attached so great an importance to the acquisition of knowledge for woman. That it did so goes to prove that Islam acknowledges an honourable and noble status for woman in life, in the sight of Allah as well as society.

But the other aspect of equality is that the man and the woman should have the same field of activity, that their activities should be similar, that they should have to shoulder equal responsibilities in all spheres of life, and that they should have identical positions in society. In support of this view it is said on the authority of scientific observation and experiment that man and woman are equipotential as regards their physical strength and ability. But their being equipotential in this respect is not a sufficient and strong enough basis for the claim that nature also requires them to have the same sorts of pursuits. For such a claim cannot be justified unless it is established that both man and woman possess identical physiological structures, that both have been entrusted with similar duties by nature, and endowed

with similar psychological dispositions. The scientific research that has been carried out so far does not lend support to any of these hypotheses.

Before we consider the point on which Islam differentiates between the sexes, let us first tackle the basic problem from the physiological, biological and psychological standpoints. After that we will take up the Islamic viewpoint.

It has been established by biological research that woman is quite different from man not only in her appearance and external physical organs but also in the protein molecules of tissue cells. From the time that sex formation of the foetus starts, the physiological structures of the two sexes begin to develop differently. The female physical system is evolved in order to bear and bring up children. It is to meet the requirements of this end that all physiological changes take place in the female body from infancy to maturity, and it is the demands of this very end that determine its future course of development also.

As soon as a girl attains maturity, menstruation starts affecting the functioning of all her physical organs. The investigations made by famous biologists and physiologists show that during menstruation a girl become easily irritable and furious and at times behaves in a silly and wild manner. Dr. Kraft Ebing writes:

"A woman who in her daily life may appear to be polite, polished and sweet-tempered, changes outright during menstruation. During the "low" period women have to pass through a terrible ordeal indeed. They become ill-tempered and quarrelsome. Servants, children and husbands complain of their quick-temperedness. Even strangers sometimes receive rude treatment at their hands."



Some other authorities on the subject have been led to the conclusion that most crimes by women are committed during this state. A good righteous woman may commit theft and then feel remorse. Weinberg says on the basis of his observations that 50 per cent of women who commit suicide have been those who were having the menses. In view of this Dr. Kraft Ebing is of the opinion that before trying a young woman for a crime the court must ascertain that the crime was not committed during menstruation.

Professor Lapinsky writes:

"During menstruation a woman is deprived of her freedom of action; she becomes a slave to involuntary behaviour and her capacity to do anything at will is considerably reduced."<sup>1</sup>

Thus monthly courses which continue to recur throughout her youth render the woman unfit to undertake any task of major responsibility or one involving physical or mental exertion, for three to seven or ten days in every month.

Then woman has to pass through the ordeal of pregnancy stretching almost over a year when she does not quite live her own life. A pregnant woman cannot undertake any work of mental and physical exertion which she could easily undertake at other times. During pregnancy a woman's nervous system becomes disordered and remains so for months together. She is mentally deranged; all her mental and psychic energies remain continually upset: and she remains hanging between health and unhealth, and a little carelessness can cause her serious illness. According to Dr. Fischer even a healthy woman remains subject to extreme mental derangement during pregnancy. She becomes fickle, mentally disturbed and unwell, with the result that her capacity to understand and think is seriously affected. Havelock Ellis,

<sup>1</sup> Prof. Lapinsky, *The Development of Personality in Women*

Albert Mole and other writers on the subject are agreed that a pregnant woman, especially during the last month of her pregnancy, cannot be expected to undertake any work of physical or mental exertion.

Then comes the period of suckling when she feeds humanity on her blood at the springs of her breasts. She has to pass sleepless nights and troublous days, especially during the early years of the child's development. During this period she in fact has to sacrifice her comfort and peace, her ease and desires, and every thing that she would dearly love to have, to the well-being of the coming generation.

In view of these facts, let us now consider the demands of justice and fairplay. The question is: Will it be just and fair to require her to undergo all sorts of hardships set for her sex by nature and also to earn her living in the economic field? Will it be proper and right to make her take equal part with man in Industry and Commerce, Agriculture and Administration? Above all, will it be just and right to require her to allure men's hearts also by her presence in mixed gatherings and provide them with means of entertainment and pleasure? It is not justice, it is sheer injustice; it is not equality, but sheer inequality. Justice and fairplay would demand that the one who has already been burdened by nature should be given light duties in society, and the one who has no such natural duty should be required to shoulder all the important and heavy social responsibilities including the duties of supporting and protecting the family.

Not only is it unfair to load woman with the outdoor duties but she cannot in fact be expected to perform them with manly vigour. These duties can be suitably carried out only by those workers whose efficiency does not waver, who can perform them equally well at all times with persistence, and whose mental and physical abilities can always be relied upon. But the workers who are rendered unfit, or nearly



unfit, for a number of days every month, whose capacity to work falls short of the required standards time and again, cannot be expected to shoulder these responsibilities.

To prepare woman for manly jobs is utterly against the will of nature. It neither helps humanity nor the woman herself. Since biologically woman has been created to bring forth and rear children, psychologically also she has been endowed with such abilities as suit her natural duties. This explains why she has been endowed with tender feelings of love, sympathy, compassion, clemency, pity and sensitiveness in an unusual measure. And since in the sexual life man has been made active and woman passive, she has been endowed with those very qualities alone which help and prepare her for the passive role in life only. That is why she is tender and soft instead of rough and rigid. That is why she is submissive and impressionable, yielding and timid by nature. With these qualities she cannot be expected to function successfully in the sphere of life which demand firmness and authority, resistance and cold-temperedness, and which require the exercise of unbiased, objective judgement and strong will-power. To drag the woman into these fields of activity, therefore, is to abuse her as well as the fields of activity themselves.

It is not even useful to the well-being of human society. Man's life and civilization on the earth stand as much in need of coarseness, vehemence and aggressiveness as of tenderness and softness. Good Generals, good Statesmen and good Administrators are as necessary as good mothers, good wives and good house-keepers. To ignore or discard anyone of these aspects is tantamount to harming and corrupting man's social life itself.

It is for this reason that we are at a loss to understand how all this empty talk about an absolute equality between man and woman can ever bring to pass. The demand for equality between man and woman as human being is a

natural and reasonable demand. Man and woman are two equally important component parts of a human society, proceeding from the one and the same progenitor. But so far as the demand for treating them as equals in their functions in life and the modes of their actual performance is concerned, can that ever be feasible? That is simply impossible even if all the women around the world should wish it, hold conferences and pass resolutions to that effect. These conferences and their resolutions cannot alter the characters of men and women, nor can they in any way transform their functions making men share those of women in conception, birth and suckling and *vice versa*.

No specific biological function can be carried out in the absence of a special type of psychophysical disposition. This means, in other words, that the specialized functions of woman *viz.*, conceiving and suckling, call for the emotional-cum-intellectual outfit of special type such as prepares and enables her to discharge these most arduous duties.

Of course, motherhood with all its noble feelings, exalted acts, patience through a series of tribulations, besides a most meticulous perfection in consideration and performance, cannot exist in the absence of that physical constitution which befits a woman for her specialized functions of conceiving and suckling, and gives form to her psychological, intellectual as well as nervous organism. These intellectual, psychological, nervous and physical characteristics of woman are found side by side complementing one another as well as co-ordinating and harmonising themselves. Therefore, it must be a very rare exception that one of them should exist without a simultaneous existence of its counterparts.

And all this tenderness of feelings, intuitional impressibility, and highly susceptible disposition with which a woman is endowed show that basically she possesses an



emotional character rather than an intellectual one. It is this very emotional character that forms the most lively and ever flowing spring of her motherly attributes, as the upbringing of a child calls for qualities not intellectual which may be passive or active and may or may not successfully meet the requirements of a child, but an overflow of vehement feelings and passions such as does not allow her to meditate coolly but impels her to answer the child's call immediately without delay or slackness.

This in fact is the true character of woman in life. It helps her in the performance of her real functions as well as in the realization of her creative purpose.

Man, on the other hand, has to discharge a quite different duty for which he is equipped aptly but differently from woman. He has to engage in the struggle of life going on in the outside world, be it in the form of subduing wild beasts in jungles, or contending against the forces of nature on earth and heavens, or forming of a government, or legislating about national economy. He has to tackle all these problems to scratch a living, and safeguard his person, his wife as well as his children against oppression.

Man as such does not need the vehement emotional nature for the performance of his functions in life. Emotions prove harmful rather than helpful in pursuance of his duties, for they are characterized with a fickleness that causes them change rapidly and into mutually quite contradictory states of mind. They are unable to pursue a course of action for long. The objects attracting them ever change. Such an ever-changing emotional character is suitable for motherhood that has got to deal with mutually opposed and changing situations. But they are not helpful for man whose work demands of him constancy and steadfastness for long period of time. Rather it is intellectual disposition that proves helpful to a practical life where he has to contend against

so many adverse forces. He has thus more efficiency in planning, in carefully revising the situation and taking note of all the possible consequences of his scheme before actually translating it into action. The intellect moves slowly but steadily, for quickness and rapidity of action are not expected of it as against the vehement emotions that lend colour to the whole existence of woman. What is, however, expected of intellect is that it should show a most proper way to achieve its end, be it the hunting of a beast, inventing of an instrument, laying down the foundations of a new system of economy, setting up a new form of government, waging a war, or making peace. All these activities of man depend upon his intellectual ability. Emotions creeping in cannot but spoil them.

And, therefore, man is well adjusted only when he is engaged in his true manly pursuits and objectives in life. This should explain the various differences found in the respective physical constitutions of man and woman: Why it is that man joyfully pursues the professions where he has mostly to draw on his physical and intellectual faculties whereas in emotional life he is just as mercurial as a child; and why is it that a woman is adjusted in her natural sphere of emotional activities only and derives so great a pleasure out of these, for it is through these alone that she can best realize the real objective of her earthly existence? That is also why she feels at ease in those professions only that have got an emotional appeal for her feminine nature *viz.*, nursing, teaching or fostering. Similarly when she goes to work in a shop, it is because it has also got an emotional charm of its own for her as it enables her to carry out her search for a male companion. But all these activities are mere off-shoots; they cannot in themselves, however, satisfy her natural urge for a husband, a home, a family and children. It is natural, therefore, that as soon as she gets a chance to perform her primary functions, she leaves off her job and devotes herself



exclusively to her household duties compelled otherwise by an exigency such as the need for money etc.

This does not, however, mean that man and woman are fundamentally and irreconcilably different from each other. Nor does it imply that all the members of a sex lack all the potentialities necessary for the functions which the members of the opposite sex alone by nature are fit to perform.

The two sexes are thus found mixed up, as it were, in a medley. If you find a woman who is capable of ruling, dispensing justice, lifting heavy burdens and fighting in wars. . . . and if you come across a man who can cook, do household chores or has got very tender motherly feelings for children or is very fickle emotionally and is visited by shifting moods, then you must remember that it is all natural; there is nothing unnatural about it. It is the legal result of the fact that each sex has in itself the germs of both sexes. But this does not at all prove what these misguided Westerners and the discordant Easterners would have us believe. The real problem stated briefly rather is: Can all these extra-functions that a woman is called upon to perform substitute for her real and natural function? Does she in the presence of these no longer feel the desire for a home, children and a family? Above all, does she no longer feel the need for a male partner for the satisfaction of her sexual instinct?

Now that we know the reality of differences between man and woman, let us return to the points that form the basis of differentiation between the two sexes and their functions in Islam.

The great distinctive mark of Islam is that it is a practical system of life and is ever ready to make due allowance for the human nature never seeking to oppose or make it deviate from its natural course. It calls upon men to purify their souls and makes them ascend to such higher

planes of being as approximate the realm of ideals and dreams, but in the whole process of improving and edifying men, it does not seek to alter their natures, nor does it believe that such a change in human nature is ever possible or useful for the welfare of mankind, if ever possible. It rather believes that the noblest achievements of humanity are those that it achieves through and with the help of its own basic nature after its refinement and ascension to the noblest planes of voluntary virtue from being a more captive of its material needs.

The attitude adopted by Islam about the problem of man and woman too is quite in consonance with the human nature. Thus it effects equality between them where there is a natural ground for it; and differentiates between them where such a differentiation is but natural.

Now let us cast a glance over the Islamic Law with regard to the obligations of the wife towards her husband. She has the following three most important obligations:

1. She should obey her husband whenever he should want her to go to bed with him.
2. She should not allow anyone to defile the bed of her husband whose presence is resented by him.
3. She should be faithful to him in his absence.

As to the first of these, a little explanation is necessary to appreciate it properly. Its wisdom is obvious. Man's physical constitution is such as impels him to sexual gratification more often so as to relieve himself of its oppression and so that he may be able to perform his duties in practical life more smoothly and efficiently. He is in his youth in particular far more dominated by the sex instinct and feels the need to satisfy it more acutely than a woman does, although sexually she is far more profound than he and is physically and psychologically more intensely inclined to it,



but her inclination may not express itself in the physical sense alone. Marriage is a means to gratify this natural instinct of man as well as meet the demands of his spiritual, psychological, social and economical life.

The second obligation of the wife towards her husband that she should not allow any one such as is resented by her husband to tread his bed, implies that she should not let anyone enter his house whom he would not like to enter into.<sup>1</sup> The wisdom of this commandment is evident from the fact that a great many disputes between the married couples are caused by the intervention of a third person who spread false rumours, slanders and thus adds fuel to their family quarrels. What if in order to prevent such a development the husband were to demand of his wife not to allow a certain person into his house but she disregards it? The result will be the presence of a constant source of mischief rendering the patch-up between them impossible. Thus this obligation of the wife also purports to the good of family life including the children who require a congenial atmosphere of love and affection for their proper and normal growth.

The third obligation of the woman—the guarding of her husband's property and honour in his absence—is but a natural and logical sequence of marriage such as none may dare call in question. It is however, not a unilateral obligation but rather a bilateral one: both husband and wife must remain faithful to each other.

The obligations of a wife towards her husband are not enforced arbitrarily. They are meant for the general good of the society of which the wife forms but a part. Most of her

<sup>1</sup> This does not, however, in any way refer to adultery as it is forbidden by law and will have to be eschewed even if the husband should happen to favour it

obligations are balanced with similar obligations which the husband has to discharge with respect to her. As to the few situations where man enjoys in one way or another a precedence over the woman the basic consideration has been the difference between their respective dispositions. It does not at all spring from any desire to humiliate or disgrace the woman.

Now we propose to take up some other doubts that are prevalent about the problem of woman. To begin with is the right of the woman to work and move in public, which is duly endorsed by Islam. In the early period the woman worked outside whenever there was any genuine need for it. Similarly Islam did not forbid woman to go out and work in such social institutions as required their services e.g., female education, nursing, medical treatment of women etc. Their services may for these purposes be procured as those of men are procured in wars etc. If a woman has no bread-winner she may as well go and work outside. But it must be remembered that Islam permits woman to go outside their houses only when there is really a genuine need for them to do so. Otherwise it does not in principle approve of women's activities outside their houses as the West and the Communist nations do. This is a mere folly which Islam does not approve of, for a woman cannot participate in social activities but at the cost of her real primary function within her home by leaving which she may engender many psychological, social and moral problems.

The woman is physically, intellectually and intuitively best equipped for her real function of motherhood can hardly be disputed by anybody. Therefore, if her attention is diverted to other unimportant activities, humanity is bound to suffer. In such a case she becomes just a plaything in the hands of men and a slave to their foolish demands, giving way to unchecked luxury and license. Islam cannot approve of this situation which if it did, it might be shorn



of its chief distinctive mark of holding that mankind is a coherent entity that does not suffer a change with the changing circumstances.

It is also said: Why can't a woman be a worker outside as well as a mother inside home at the same time. Nursing homes and nurseries have been proposed for the bringing up of children so that mothers may wholly devote themselves to outdoor activities. But the fact is that no nursing home can provide and make up for mother love. The love, the kindly regards and good wishes so badly needed by a child in early childhood cannot be evoked from the hearts of hired nurses.

Assigning the woman her natural function of nursing the human race wholeheartedly Islam had an eye to the demands of human nature as well as those of society. So man was charged with the duty of supporting her and providing for her requirements so as to leave her free from all irrelevant worries, besides giving her the highest respect and regard in the society.

This is the division of labour which nature herself has devised between the sexes. All the researches that have been carried out so far in biology, anatomy, psychology and sociology point to the same division. Bearing a child and shouldering the responsibility of rearing it is a decisive factor which delimits the woman's field of activity in human social life. No man-made device can alter or affect the will of nature in this regard. Thus a righteous civilization is the one which jealously guards this natural division of labour, which provides the woman her rightful and honourable position in society, which recognizes her social and economic rights, which loads her only with the domestic duties, and which makes man responsible for all outdoor duties including the duty of supporting and protecting the family. A civilization that ignores this division of labour may show temporarily some signs of material progress and prosperity, but it will

surely meet a tragic end eventually. For when the woman is loaded with the economic and social responsibilities along with the man, she will throw off the burden of her natural duties and thus bring social life as well as humanity to grief. The woman can, if she strives against her temperament and natural physical structure, carry out with some success all the duties assigned to man by nature, but man in no way can make himself fit to bear and rear children.

Keeping in view this natural division of labour, the following will be the distribution of duties for man and woman in the social and family organization:

1. Earning a livelihood for the family, supporting and protecting it, and carrying out the labourous sorts of social duties should be the responsibility of the man.
2. Bringing up children, looking after the domestic affairs and making home-life happy, pleasant and peaceful should be entrusted to the woman.

Islam seeks to elevate human beings inculcating in them higher moral and spiritual values. It taught man that "The noblest of you in the sight of Allah is the one best in conduct", rather than the one who is the richest, mightiest or strongest. Once these higher values are firmly established in society, the woman will no longer be looked down upon because of her weakness. The gauge of a man's humanity in such a society is his fair treatment of his wife as the Messenger of Allah (peace and blessings of Allah be upon him) said: "The best amongst you is he who is best to his wife and I am the best amongst you as regards the treatment of my wife." Deep insight into the human psychology as this tradition of the Messenger of Allah (peace and blessings of Allah be upon him) does exhibit, it also tells us that man cannot ill-treat his wife without being a victim of psychological complexes and disorders or falling short of the true human standard.



The sex relations of men and women are in the sight of Islam not purely animal relations. They rather represent their physical need which it approves of with an eye to free from the over-domination of sex which if left to itself may thwart their creative pursuit belonging under the different realms of practice, science, arts or worship and which may in the absence of a lawful outlet drive them to adopt wrongful practices. As such though Islam does not condemn sexual relations of men and women, yet it does not approve of their being wholly taken up with them. It rather urges them to devote their energies to the higher and nobler ends of life, man exerting himself in the way of Allah incessantly and woman doing her best in training her children and looking after her household duties. Thus Islam gives both man and woman ideals that elevate them far above the purely animal level of needs and passions. The Holy Qur'an and the traditions of the Messenger of Allah (peace and blessings of Allah be upon him) are full of moral precepts that aim at the spiritual elevation of human soul disciplining it to exercise self-control and observe the principles of justice and a respect for others such as one would himself expect from others.

\*\*\*\*\*

## CHAPTER 6

### INSTITUTION OF MARRIAGE IN ISLAM

Marriage is a social institution as old as the human race itself. It may be defined as a relation between a man and a woman which is recognised by custom or law and involves certain rights and duties, both in the case of the parties entering the union, and in case of the children born of it. Marriage has thus two main functions to perform: it is the means adopted by human society for regulating relations between the sexes; and it furnishes the mechanism by means of which the relationship of a child to the community is determined.

The rites and ceremonies of marriage have been different with different peoples and in different ages, but these two main functions mentioned above are common everywhere in marriage. It always implies the right of sexual intercourse as allowed and recognised by society and the duties of the parents in bringing up children.

Islam recognises this institution and accepts it as the basis of human society after purging it of all those evils which had penetrated it.

Islam does not regard it as a union only for the gratification of sexual lust, but a social contract with wide and varied



responsibilities and duties. The reason behind it is that, according to the Divine Faith, a woman is not a plaything in the hand of man, but a spiritual and moral being who is entrusted to him on the sacred pledge to which Allah is made a witness. The wife is, therefore, not meant to provide sensuous pleasure only to the male, but to fully cooperate with him in making the life of the family and ultimately of the whole humanity significantly meaningful.

The Holy Qur'an has in so many Verses pointed out the different purposes of marriage. It states:

"And among His Signs is this, that He has created for you mates from among yourselves, that you might find quiet of mind in them, and He has put love and mercy between your (hearts)." (30:21)

In this Verse it has been said that the female is not inferior to the male in the sense that the former is created out of a superior stuff while the latter comes of a base origin. Both man and woman are the progeny of Adam and thus both have the same soul. The purpose of marriage, according to the Holy Qur'an is, therefore, the union of the two souls which are one in essence. Their separate existence is an unnatural state of their being which changes into the natural state when they are united by marriage and thus are brought close to each other physically, mentally and emotionally.

Both man and woman are the joint heirs of the grace of life, and unless there is a very close and intimate form of companionship in them they cannot enjoy the true grace of life.

Again the Holy Qur'an says:

"He it is Who did create you from a single soul, and therefrom did make his mate that he might find comfort in her." (7:189)

In this Verse "comfort" implies much more than a mere sexual gratification. It is not too much to say that the whole conception of marriage relation in Islam is charged with spiritual and moral ideas and must of necessity elevate the status of matrimonial alliance in the individual and social life.

In Islam the union of the sexes has been purified and the joy of the married relation secured by the absolute prohibition of every kind of extra-matrimonial connection. The Holy Qur'an stresses upon the people to marry as it is the most effective means whereby one can lead a virtuous and pious life free from immorality and emotional inhibition. The Holy Qur'an says:

"They (your wives) are as a garment to you, and you are as a garment to them." (2:187)

The mutual relationship of husband and wife is here described in words which could not be surpassed in beauty. Herein is the correct description of the relationship between the two. The relation between husband and wife is like that between clothes and body. Just as they are close to and fit into each other and nothing intervenes between them, in the same way, husband and wife are closely related to each other and are a source of mutual support, protection and comfort to each other.

Then the Holy Qur'an also makes it clear that this union is not a temporary relationship between the two individuals of opposite sexes: it is a permanent and enduring relationship in the sense that both the parties should put in their earnest endeavour to lead their lives amicably and acquitting themselves creditably of the responsibilities saddled upon them by entering into this sacred contract.

The Holy Qur'an further points out that sexual gratification in the married life is not meant only for the



satisfaction of the physical lust, but it must be directed to some higher goal. The Holy Qur'an says:

"Your women are tilth for you, so go into your tilth as ye like, and provide beforehand for your souls, and fear Allah and know that you are going to meet Him."  
(2:223)

Here the wives are likened to the cultivable land which are ploughed for sowing and reaping the produce (in the form of offspring) and not merely for carnal indulgence. The farmer does not go to his field merely for recreation and enjoyment but for cultivation to get produce from it. In the same way, a man should go to his wife to produce children. Allah's law, however, is not concerned with the method of cultivation but with this demand that man should go to the field and not elsewhere and to his own field and for production. The concluding part of the Verse refers to still higher and sublimer ends which tell that even in the height of carnal pleasures the moral and spiritual responsibilities should not in any way be lost sight of; rather one should be more conscious to them when one is enjoying physical pleasures as these are the moments when the fear of Allah and the accountability in the Hereafter is likely to be blurred or effaced from one's mind.

Islam does not believe in the absolute suppression of the sensual side of human nature. The conception of the saintly life in Islam is not, therefore, the extermination of all carnal impulses, but to control them and keep them within proper limits. Islam does not make the life of an individual completely dark and dreary, devoid of all enjoyments of life. Islam encourages healthy enjoyments and one out of these is the satisfaction of the sexual desire. Islam does not associate the idea of sexual pleasure with that of sin and vice. Pleasure gives strength to the moral side of a man provided one does not transgress the limits of ethical codes.

Man is free and therefore, it is argued, that he can claim a free intercourse with every woman. If this theory is accepted, it will mean disorder and chaos in the society leading ultimately to destruction of human civilization. In that case, he is nothing but only a beast. The limitation to free love and free intercourse by marriage is for the ultimate benefit of human development as a whole and particularly for the progress of human civilization. Marriage engenders love at first for wife, then for children, then for kith and kin, then for the society and ultimately for the human race as a whole. The real unit of human civilization is the family and there can be no family if there is no marriage. 'Free love' creates no responsibility, no ownership of property and no kith and kin. If free love is allowed indiscriminately and lasts for nearly a century, the world will be field of chaos, bloodshed and social disorder of the first magnitude.

**Benefits of Marriage:** Marriage contributes to many-sided progress of a man, physical, mental, social, moral and spiritual. In an unmarried stage, these things cannot be achieved in all perfections. There is therefore, a great deal of distinction between a bachelor and a married man, or an unmarried woman and a married woman.

(a) **Physical Benefits:** We see daily around us how a man was erewhile sickly and suffering from various diseases but as soon as he got married, his diseases generally disappeared within a short time. This is also true in case of girls and women. Marriage is, therefore, the best medicine for certain kinds of diseases in grown-up males and females. It also contributes to the physical beauty of the married couple.

(b) **Mental Benefits:** Marriage gives peace of mind. The Holy Qur'an says:

"And among His Signs is this, that He has created for you mates from among yourselves, that you might find



quiet of mind in them, and He has put love and mercy between your (hearts); verily in that are signs for those who reflect." (30:21)

By marriage, an idle man is turned into an active man, a spend-thrift prugal and the hard-hearted kind. It is, therefore, a harbinger of new thoughts, ideas, responsibilities and obligations. It sets up the mind to thoughts and actions which were dormant before marriage.

(c) **Social Benefits:** Marriage creates a family consisting of children and wife. Families create society and the progress of a family means the progress of the society. Marriage creates a new company of kith and kin, because sons and daughters go to create new families. Hospitalities, fellow-feelings, kindness and mutual help become binding among these relations. Marriage therefore, gives impetus to what is called "Social virtues." Marriage gives the rights of inheritance and ownership in property to the nearest relatives. The Holy Qur'an therefore, says:

"And He it is Who has created man from water, and has appointed for him kindred by blood and kindred by marriage; for thy Lord is ever Powerful." (25:54)

(d) **Moral Benefits:** Marriage is a great medicine for checking unruly sexual passions and falling to sins and crimes. Hadrat 'Abdullah bin Mas'ud (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: O' assembly of youths! Let him marry who amongst you is able to have sexual intercourse, and verily it greatly shuts up eye-sight and protect private parts. (*Agreed upon*) It is well-known that out of sexual passion, many great sins are committed in this world. If it is satisfied by marriage, many a crime will disappear from the world. It contributes thus to moral welfare of individuals, families and societies.

(e) **Spiritual Benefits:** Moral progress leads to spiritual progress which then leads ultimately to the Blessed Company.

**Considerations in Marriage:** The foremost quality of a bride is as the Holy Qur'an says:

"Marry of the women, who seem good to you." (4:3)

It appears therefore that the bridegroom and the bride's mutual choice has got the greatest consideration. If this is lacking though there are other qualifications, marriage should not be contracted as, afterall, marriage is the union of two souls and unless they are pleased with each other, the very purpose of marriage is frustrated. In the following traditions we find other qualifications of a bride to be sought in marriage.

Jabir bin 'Abdullah (Allah be pleased with him) reported : I married a woman during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him). I met the Messenger of Allah (peace and blessings of Allah be upon him), whereupon he said: Jabir, have you married? I said: Yes. He said: A virgin or one previously married (widow or divorced)? I said: With one previously married, whereupon he said: Why did you not marry a virgin with whom you could sport? I said: Allah's Messenger, I have sisters; I was afraid that she might intervene between me and them, whereupon he said: Well and good, if it is so. (*Muslim*)

Abu Huraira (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as saying: A woman may be married for four reasons: for her property, her status, her beauty and her religion; so try to get one who is religious, may your hand be besmeared with dust. (*Muslim*)

It is generally the worldly consideration which predominates the mind of man in making a choice for the woman



to be contracted for marriage. Every young man has a natural desire to marry a young girl so that they can enjoy the sweetness and pleasure of married life. Islam does not suppress this natural desire of a healthy young man, because if this opportunity is denied to him, he may either have mental inhibitions or other psychological maladies or may resort to immoral practices for the satisfaction of his sexual desire. So Islam encourages its followers to adopt the natural course and not to burden their lives with unbearable suppressions. The concluding remarks of the Messenger of Allah (peace and blessings of Allah be upon him) give us a golden rule for making a choice for marriage and that is that religious piety should dominate all other considerations.

Ma'qal bin Yasar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Marry such women as are affectionate, child-producing; and verily I shall be an instrument of increasing your members among the nations. (*Abu Dawud and Nasa'i*)

Men, therefore, select a bride or bridegroom after taking into considerations of the above qualifications, but they should attach more importance to their religious temperaments and piety than to other qualities.

**Prohibited Degree of Marriage Relationship:** According to the Holy Qur'an, the following females are prohibited for marriage:

"Forbidden unto you are you (1) mothers, (2) and your daughters, (3) and your sisters, (4) and your father's sisters, (5) and your mother's sisters, (6) and your brother's daughters (7) and your sister's daughters, (8) and your foster-mothers, (9) and your foster-sisters, (10) and your mothers in-law, (11) and your step-daughters who are under your protection (born of your women unto whom you have gone in—but if

you have not gone in unto them, then it is no sin for you (to marry their daughters), (12) and the wives of your sons who (spring) from your own loins (13) and (it is forbidden unto you) that you should have two sisters together, except what has already happened (of that nature) in the past, for Allah is indeed Forgiving, Merciful, (14) and all married women (are forbidden) unto you save those (captives) whom your right hands possess." (4:23)

These are fourteen females that have been prohibited for marriage. Islamic Jurisprudence has enlarged the scope and *Hidaya* expanded these prohibitions and classed them into three groups:

Prohibition owing to (1) Consanguinity (2) Fosterage (3) Affinity:

a) **Consanguinity (*Nasab*):** The Holy Qur'an speaking of consanguinity (*nasab*) prescribes the following persons falling within the prohibited degrees of marriage relations, mother, daughter, sister, paternal aunt, maternal aunt, niece either on the side of brother or sister.

The prohibition about mother applies both to the real mother and to the step mother and both are unlawful. From mother the prohibition is extended to grandmothers either on the side of the father or mother. Experts have differed as to whether the woman with whom one's father has had illicit relations is unlawful or not for the son. Some of those who consider it unlawful are of the opinion that even that woman whom the father touches lustfully with hand becomes unlawful for the son. There has also been a difference of opinion as to whether that woman with whom the son has had illicit relation is unlawful for the father and whether that man with whom the daughter has had illicit relations becomes unlawful for her mother and *vice versa*. There have been lengthy controversies concerning the legal niceties of



this matter, but a little thinking will show that the existence of such things in any form in a good society cannot bode well for it. Divine Law cannot, therefore, tolerate any kind of hair splitting to make it lawful. This is because these distinctions would create jealous which is bound to disintegrate the family, on which depends the welfare of the whole society. This is supported by the following two traditions of the Messenger of Allah (peace and blessings of Allah be upon him):

- (i) "The mother and the daughter of the woman become unlawful for the man who cast a look at her sexual organ."
- (ii) "Allah does not like even to look at a man who casts a gaze at the sexual organ of the mother and of her daughter."

The prohibition about daughter also applies to the daughter of the son and the daughter of the daughter. By daughter is also included grand-daughter either by the son or daughter. There is, however, a difference of opinion in regard to a girl born of an illicit relationship. Imam Abu Hanifa, Imam Malik and Imam Ahmad bin Hanbal are of the opinion that she is unlawful like the lawful daughter but Imam Shafi'i does not consider an illegitimate daughter unlawful. But the very idea is repugnant that one may marry the girl about whom one has the knowledge that she is of his own seed.

The prohibition about sister applies to the real sister as well as to the foster sisters from the father's and mother's side.

By paternal aunt is included one's father's or mother's paternal aunt. Likewise, in maternal aunt is included one's father's or mother's maternal aunt.

All these relations are prohibited, irrespective of whether they are real or step from the father's side or from the mother's side. The sister of the father or mother, whether real or foster, is unlawful for the son. Similarly the daughters of the brothers and sisters whether they are real or step are unlawful for a person like his own real daughter.

b) *Fosterage (Al-Rida)*: Marriage with a woman to whom a man is related by fosterage is forbidden. Foster mother includes her mother, her foster mother and the foster mothers of one's parents. Foster sister includes foster brothers.

The consensus of opinion is that the woman who suckled a boy or a girl should be treated as the real mother and her husband as the real father with regard to this prohibition. All those relations that have been made unlawful in respect of the real mother and real father are also prohibited in respect of the foster mother who has suckled and in respect of her husband. This is based on a tradition of the Holy Prophet (peace and blessings of Allah be upon him) to this effect: "Suckling makes unlawful what blood makes unlawful." There is, however, a difference of opinion as to the minimum quantity of milk that is suckled. According to Imam Abu Hanifa and Imam Malik, if the child suckles milk equal to that minimum quantity that breaks fast, the woman shall be treated as its real mother for marriage relations. But Imam Ahmad is of the opinion that the prohibition shall take place if the child suckles the woman at least three times and according to Imam Shafi'i at least five times. There is also a difference of opinion as to the age of the child at the time of suckling that brings prohibition. Below are given the opinions of the expert in law :

Hadrat Umm Salama, Ibn 'Abbas, Zuhri, Hassan Basri, Qatada, 'Ikrima, and Auza'i are of the opinion that if the child is suckled during the period when it has not yet been



weaned and it lives on suckling, the prohibition shall be effective; but if it is suckled after it has been weaned, it will not apply; for this is like drinking water. There is also a saying of Hadrat 'Ali (Allah be pleased with him) to this effect.

'Umar, Ibn Mas'ud, Abu Huraira and Ibn 'Umar (Allah be pleased with them) are of the opinion that the prohibition will be effective if the child suckled at any time upto the age of two. Imam Shafi'i, Imam Ahmad, Imam Abu Yusuf, Imam Muhammad and Sufyan Thauri, also agree to this. There is also a saying of Imam Abu Hanifa to the same effect. Imam Malik also agrees to this but he says that the prohibition shall apply even if a month or so exceeds the time limit of two years.

According to an authentic saying of Imam Abu Hanifa, the prohibition shall apply if the child is suckled during the suckling period, that is up to the age of two years and a half.

Hadrat 'A'isha (Allah be pleased with her) is of the opinion that the prohibition shall apply, if one is suckled at any time whatsoever, irrespective of age. An authentic saying of Hadrat 'Ali (Allah be pleased with him) also supports the same and 'Urwah bin Zubair, 'Ata, Laith bin Sa'd and Ibn Hazm have adopted the same opinion.

c) *Affinity (Al-Musaharah)*: Marriage with a woman to whom a man is related by affinity is prohibited, such as his mother-in-law, step grandmother, daughter-in-law, step grand-daughter.

Marriage with mother-in-law is forbidden by the founders of all the four legal schools even if one has not touched or had coition with her daughter married to him. Mother-in-law includes her mother. Step-daughter here means the one born of the wife with whom one has had

sexual intercourse. The Holy Qur'an says :

"Born of your wives unto whom you have gone in—but if you have not gone in unto them, then it is no sin for you (to marry their daughters)." (4: 23)

There is no objection to marrying a step-daughter born of one's wife with whom he has had no sexual intercourse, that is the man may marry the former if he has divorced his wife before coitus. Again the prohibition of marriage with mother-in-law related by affinity is equally so of the mother-in-law related by fosterage.

d) *Marriage with two Living Sisters*: A man cannot have two real sisters as co-wives at one and the same time. The Holy Qur'an says:

"(Forbidden to you is) . . . that you have two real sisters together as wives at one and the same time." (4 : 23)

Just as marriage is forbidden with two living sisters so it is with an aunt and her niece. Thus marriage is forbidden with one's sister's husband so long as the marriage tie subsists. She may marry her brother-in-law in the event of her sister being divorced or her death. The principle is that no two women who would have been unlawful for each other if one of them had been a man should be kept as wives at one and the same time.

If two women are not real sisters but are cousin sisters that is, daughters of uncle, maternal uncle, aunt or maternal aunt, they can marry the same person at a time. The same rule applies to distantly related aunts—maternal or paternal and nieces etc. They can be married to the same man at a time.

The marriage of a Muslim woman is not permissible with a man of another religion.

If a woman is divorced or her husband dies, then it is not permissible for her to re-marry unless the period of



'Idda has expired in both the cases. If a woman has been married, then it is not permissible for her to marry someone without obtaining divorce and observing 'Idda.

One who has already four wives, it is not permissible for him to marry the fifth. If he has divorced one of them then so long as the 'Idda period of the divorced woman does not pass, no woman can marry him.

**Selection of a Life Partner:** In some societies, there is betrothal between a man and a girl before marriage followed sometimes by sexual intercourse. This is a completely unsatisfactory method of selection of mates. It is free love in the garb of wooing. On the other hand, there are practices in some societies just opposite. Islam took the middle course. It allows a man or a girl to select his or her mate after sights and glances and not beyond that. From the following traditions it is quite clear that the parties are completely free to have a glance at each other:

Abu Huraira (Allah be pleased with him) reported: I was in the company of Allah's Messenger (peace and blessings of Allah be upon him) when there came a man and informed that he had contracted to marry a woman of the Ansar. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Did you cast a glance at her? He said: No. He (the Holy Prophet) said: Go and cast a glance at her, for there is something in the eyes of the Ansar.<sup>1</sup> (*Muslim*)

Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: When one of you seeks a woman in marriage, and then if he is able to have a look at whom he wishes to marry, let him do. (*Abu Dawud*)

<sup>1</sup> There was some defect in the eyes of the women of Ansar

Mughira bin Shu'ba (Allah be pleased with him) reported: I sought a woman in marriage. The Messenger of Allah (peace and blessings of Allah be upon him) told me: Have you seen her? "No" said I. He (the Holy Prophet) said: Then look at her, because it is more proper that love should be cemented between you (*Ahmad, Tirmidhi, Nasa'i and Ibn Majah*)

The jurists also unanimously approve this principle of sight. Marriage is a contract and consequently it follows that the two parties must have look at the thing for which the contract is executed.

According to Imam Abu Hanifa, it is lawful to have a sight of the bride and bridegroom before marriage. Imam Malik holds that it is lawful with the permission of bride. Imam Shafi'i and Imam Ahmad hold it lawful either with permission or without permission.

**Proposal of Marriage:** When a man who wants to marry, has satisfied himself about a woman, he makes a proposal of marriage either to the woman or to her parents or guardians. When a man has made a proposal of marriage to a woman, others are forbidden to make a similar proposal to the same woman, till the suitor has given up the matter or has been rejected.

Ibn 'Umar (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as having said: None amongst you should outbid another in transaction, nor should he make proposal of marriage upon the proposal made by someone else. (*Muslim*)

A woman may also make a proposal of marriage to a man, or a man may propose the marriage of his daughter or sister to a man; generally however, it is the man who makes the proposal. When consent has been given to the proposal of marriage, it becomes an engagement, and usually a certain time is allowed to pass before the marriage (*Nikah*) is per-



formed. This period allows the parties to study each other further, so that if there be anything undesirable in the union, the engagement may be broken off by either party: it is only after the *Nikah* has been performed that the two parties are bound to each other.

**Age of Marriage:** No particular age has been specified for marriage in the Islamic Law; in fact, with the difference of climatic conditions, there would be a difference as to the marriageable age in different countries. But the Holy Qur'an does speak of an age of marriage which it identifies with the age of majority:

"And go on observing and testing the orphans until they reach the marriageable age; if then you find them of sound judgement, deliver over unto them their property; and devour it not by squandering and in haste lest they should grow up (to demand it)." (4:6)

Thus it will be seen that the age of marriage and the age of maturity of intellect are identified with full age or the age of majority. And as marriage is a contract the consent to which depends on personal liking, and since this function cannot be performed by any one but the party who makes the contract, it is clear that the age of marriage is the age of majority, when a person is capable of exercising his choice in matters of sexual liking or disliking. A man or a woman who has not attained puberty is unable to exercise his or her choice in sexual matters and unable to decide whether he or she will like or dislike a certain woman or man as wife or husband.

**Consent in Marriage:** Marriage has been called *mithaq* (covenant) in the Holy Qur'an, a covenant between the husband and the wife in the presence of human witnesses and under the vigilance of the All-Seeing Lord, the Master of the Universe. This mutual consent is technically called *ijab* (affirmation or declaration) and *qabul* (acceptance or

consent) in *Fiqh*. This shows that no woman can be forced to marry a particular man without her consent. This is her right which must be respected and honoured by the Muslim society. •

Abu Huraira (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as having said: A woman without a husband (or divorced or a widow) must not be married until she is consulted, and a virgin must not be married until her permission is sought. They asked the Messenger of Allah (peace and blessings of Allah be upon him): How her (virgin's) consent can be solicited? He (the Holy Prophet) said: That she keeps silent. (*Agreed upon*)

'A'isha (Allah be pleased with her) reported: I asked Allah's Messenger (peace and blessings of Allah be upon him) about a virgin whose marriage is solemnised by her guardian, whether it was necessary or not to consult her. Allah's Messenger (peace and blessings of Allah be upon him) replied: Yes, she must be consulted. 'A'isha (Allah be pleased with her) reported: I told him that she feels shy, whereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Her silence implies her consent. (*Muslim*)

Ibn 'Abbas (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as saying: A woman who has been previously married (*Thayyib*) has more right to her person than her guardian. And a virgin should also be consulted, and her silence implies her consent. (*Muslim*)

Thus the consent of the woman whether previously married or not is essential for marriage. In case of a virgin it is the duty of the father or the guardian to consult her and seek her consent even if it is indicated by her observing silence. But in the case of a woman previously married



(widow or divorced) she has been given more right to express her consent than that of her guardian. The reason is quite obvious. The woman who is previously married is mature and she can easily look into the pros and cons of her marriage contract. The virgin is comparatively shy and feels hesitant in expressing her opinion. She is, therefore, permitted to express her consent by observing silence.

**Option of Puberty (*Kair-ul-Bulugh*):** A minor, when given in marriage, has the option of repudiating the marriage when she attains puberty. Imam Malik, Imam Shafi'i, Imam Abu Hanifa and many other jurists hold this view. Some jurists make one exception to this. They say that when a minor is given in marriage by a father or grandfather, the minor cannot revoke the marriage. It appears however, that it is against the express teachings of the Messenger of Allah (peace and blessings of Allah be upon him) in view of what is narrated in the following traditions:

Ibn 'Abbas (Allah be pleased with him) reported that a virgin grown-up girl came to the Messenger of Allah (peace and blessings of Allah be upon him) and submitted that her father had given her in marriage, which was disliking to her. The Messenger of Allah (peace and blessings of Allah be upon him) gave her option. (*Abu Dawud*)

Khansa'a bint Khizam (Allah be pleased with her) reported that her father gave her in marriage while she was a woman having consummation. She disliked it, and so she came to the Messenger of Allah (peace and blessings of Allah be upon him). He annulled her marriage. And in a narration of Ibn Majah: Marriage of her father. (*Bukhari*)

In the above two cases, the girl's wish was given precedence, as there cannot be forced love. It appears however, that the jurists meant those marriages irrevocable as have got equality in rank, position, age and suitability. Where, however, the father or grand-father carelessly or

wickedly contracts a minor in marriage, the contract can be set aside by the minor. In case of a virgin girl, the ratification may be either express or implied. Repudiation must be made immediately after attainment of maturity and before cohabiting with the husband.

Islam has laid down no age limit for puberty for it varies with countries and races due to the climate; hereditary, physical and social conditions. Those who live in cold regions attain puberty at a much later stage as compared with those living in hot regions where both male and female attain it at a quite early age.

**Marriage Guardian:** The person who is authorized to give a girl or boy in marriage is called guardian. The sequence of marriage guardians runs as follows:

- First:** The father of child, then grandfather or great grandfather.
- Second:** In the absence of above, real brother, then step-brother (of the same father), then nephew, son of nephew or grandson of nephew.
- Third:** In the absence of all of above, real uncle, son of uncle, grandson of uncle. Then step uncle (step brother of father), son of step uncle and grandson of step uncle.
- Fourth:** In the absence of above three categories of relatives, then uncle of father and his sons.
- Fifth:** In the absence of all of above mentioned relatives, uncle of grandfather and his sons.
- Sixth:** If none of the above mentioned relatives is there, then mother is the guardian of the child.
- Seventh:** After the mother, grandmother, then maternal grandmother, then real sister, then step sister from the same father, then brother or sister



from the same mother, then father's sister, mother's brother and sister etc., may be the guardian.

A minor, or an insane cannot be the guardian and so a non-Muslim cannot be a *Wali* of a Muslim.

If a guardian got a mature girl married without asking her or her consent, then it depends upon the girl to accept it or reject it. If she accepts it then the marriage is in order otherwise not. If a guardian informed a mature girl that he is giving or has given her in marriage to such and such person and the girl remains silent on hearing it or just smiled or began to weep, then this amounts to consent and the marriage will be in order. The expression of consent in words by the girl is not essential.

While seeking the girl's consent, the guardian did not mention the name of the would-be husband nor she herself knows him, then the girl's silence will not amount to consent. It is necessary to mention the name etc. of the proposed husband so that the girl may know him. Similarly if the amount of dower was not told to her and the guardian married her on less than usual amount in her family, then the marriage will not be in order without her consent which should be taken again.

If it is the second marriage of woman and she is not virgin, when the guardian sought her consent then her silence will not be enough. She must express her consent in words and if the marriage is performed without expressed consent, it will remain suspended. If later on she expresses her consent in words, then the marriage will be in order and if she does not give her consent, then it will not amount to marriage.

When father is present but uncle, brother etc. went to seek the girl's consent, then her silence should not be taken as her consent. It must be expressed in words. But if they

were sent by the father for this purpose, then her silence will amount to her consent. In short according to Shari'ah only the nearest guardian has the right to seek consent, but if anyone was deputed by him for this purpose, then her silence will mean her consent. But if the grandfather had the right, but the brother asked her; or the brother had the right but the uncle asked her, then her silence will not mean her consent and in such case it should be expressed in words.

If a guardian gave a girl in marriage to someone without asking the consent of the girl and then the guardian himself or someone deputed by him for this purpose came to inform her that she has been married with such and such man, and she remains silent on hearing it, then the marriage will be in order. If someone else other than these comes to inform her and he is a reliable person or are two men, even then the marriage will be in order if she remains silent. If the informant is one man and he is unreliable, then the marriage will not be in order and shall remain suspended till she consents or some such thing happens which may amount to consent.

When it is essential to express consent in words and the woman did not, but when the husband came to her in privacy and she did not refuse sexual intercourse, then the marriage will be in order.

A major boy cannot be forced to marry against his will to marry. He cannot be married against his will by the guardian and if done it will remain in suspense. If he agrees to it then it will become in order otherwise not. Mere silence of the boy will not amount to his consent. It should be expressed in words.

The marriage of a minor boy or girl, being dependent, will not be in order without the consent of the guardian. If he or she contracts a marriage or someone else gets it done without the consent of the guardian, then for it to be in order depends upon the consent of the guardian. If he agrees



to it the marriage will be in order otherwise not. The guardian has full right to marry or not to marry him or her with anyone. Minor boys or girls cannot reject that marriage at that time. The minor boys and girls cannot repudiate the marriage whether they had been married once or this be their second marriage. In both cases the same rule applies.

If the father or grandfather gave the minor boy or girl in marriage, they cannot repudiate the marriage on attaining maturity whether the marriage was in their class or in a lower class and whether the dower was according to family tradition or less than that. The marriage cannot be repudiated in any case after attaining puberty.

If a minor was given in marriage by some guardian other than the father or grandfather quite in accordance with all the conditions and requirements then the marriage is in order, but on attaining puberty the minor has the right to repudiate the marriage. But it can be done in the court of a Muslim Judge.

A minor girl was given in marriage by some guardian other than father or grandfather and it was in her knowledge also. Thereafter she attained puberty but did not have privacy with her husband and she does not agree with the marriage now. Then it is essential that she should express her disagreement immediately on attaining puberty or should say that she does not wish to keep the marriage whether in presence of anyone or when quite alone. It should be expressed so. But mere such expression would not annul the marriage. She should approach a Muslim Judge for this purpose and with his permission it would be done. But the explicit condition for such annulment is that the disagreement should be expressed immediately after attaining puberty and even if for a moment after that she remains silent, the marriage cannot be repudiated. But if she had no knowledge of her marriage, then she should declare her disagreement with

immediately on hearing about it and if she remains silent even for a moment after the information, then she will not have the right to repudiate.

If a girl attained puberty when her husband has had sexual intercourse with her, then it is not necessary that she should refuse to accept the *Nikah* immediately. So long as she does not express her intention, she will have the option of either accepting or rejecting the marriage however long a period may pass thus. If she expresses to accept it some such thing happens which betoken it *i.e.* she remained as wife with her husband in privacy, then the marriage is final.

If the guardian who has the right to give away the girl in marriage is out and there is an offer for the girl. The guardian is so far away that the opportunity may be lost by waiting for him to get his consent and the other party may not wait, then the person next in guardianship can give her in marriage and it would be in order.

But if the first guardian is not so far away and his consent may be obtained easily, then the second guardian cannot give her in marriage and if did, then the marriage shall remain suspended till the consent of the first guardian and shall be finalised only upon his consent.

If in the presence of the rightful guardian the second guardian gave away a minor in marriage, such as, the father had the right but it was done by the grandfather without consulting the father, then that marriage shall remain suspended upon the consent of the father.

If a major woman is independent and it is upon her to marry or not or to marry anyone she likes. No one force her against her will. If she marries someone of her own will, then it would be in order whether the guardian was informed about it or not and whether he is pleased or displeased, in every case the marriage is in order.



If she married outside her class with a male or unequal status and the guardian is displeased with it, then the marriage will not be right. But if she marries in her own class but the dower is less than the dower in usage in her father's family the marriage will be in order but the guardian can get it rescinded. The guardian should lodge the complaint with a Muslim authority in this respect. But the right of this complaint is to the person who are in the list of guardian before the mother i.e. from father to the sons of grandfather's uncle.

When there is none to be found or if any guardian unlawfully refuses to act as guardian, the Qadi is permitted to represent as guardian. The Messenger of Allah (peace and blessings of Allah be upon him) is reported to have said, "The man with authority is eligible to be a guardian for a girl for whom there is no guardian." A Qadi, however, is allowed to marry a girl only to her equal and only a girl who has attained the age of puberty and at the place of his guardianship.

**Attestation of Two Witnesses :** For *Nikah* to be valid there is the condition that there should be at least two male witnesses or one male and two female witnesses and they should be listening the words of proposal (*Ijab*) and acceptance (*Qabul*) clearly. If in seclusion one said that I gave my daughter to you in marriage and the other said that he accepted, then the marriage would not be valid and in order. The Messenger of Allah (peace and blessings of Allah be upon him) is reported to have said: Every marriage which does not take place in the presence of a guardian and two just witnesses is debauchery, debauchery, debauchery. The presence and attestation of two witnesses at the time of marriage ceremony is considered obligatory.

The witnesses—men and women—should be Muslims, mature, sensible and just. Persons ineligible to be witnesses

are: hermaphrodite, debauchee, deaf, dumb or blind, and persons who do not understand the language of *Ijab* (words of proposal) and *Qabul* (words of acceptance). It will however, suffice if the witnesses know that these are words employed for uniting a couple in marriage.

If there is no male witness but all are women, then the marriage will not be in order even if the women witnesses are ten or twelve, one male witness is necessary with two females for the evidence to be valid.

**Publicity of the Marriage:** Marriage by itself is a proclamation among the public to the effect that two souls have united for procreation and legalising of children and that others have got no right to interfere in the conjugal relations of the married couple. The greater is its publicity and proclamation, the greater is its merit. If, however, there are no proclamation and no witnesses, it is nothing but clandestine sexual relations amounting to fornication even though there is mutual consent.

Where the Holy Qur'an speaks of marriage, it at the same time excludes clandestine sexual relations. The Holy Qur'an therefore, says:

"Taking them in marriage, not fornicating, nor taking them for paramours in secret." (4 : 24, 25 ; 5 : 5)

Thus the one fact distinguishing marriage from fornication and clandestine relations is its publicity. It is better that the marriage should be held in a large gathering such as after Jum'a prayer in a mosque so that the marriage is widely publicised and should not be done secretly. If a large number of men cannot be collected due to some reason, then there should be at least two men or one man and two women who may themselves hear and witness the performance of marriage. The mutual consent of two parties to live as husband and wife does not constitute a marriage.



that consent is expressed publicly and in the presence of witnesses. An essential feature of the Islamic marriage is, therefore, the publication of the news by gathering together, preferably in a public place. There are traditions showing that marriage must be made publicly known, even with the beat of drums.

Muhammad bin Hatib al-Jumahiry (Allah be pleased with him) reported from the Messenger of Allah (peace and blessings of Allah be upon him) who said: The demarcation between lawful and unlawful things in marriage is proclamation and Duff. (*Ahmad, Tirmidhi, Nasa'i and Ibn Majah*)

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Make public this marriage and perform it in the mosques and beat duff for it. (*Tirmidhi*)

'A'isha (Allah be pleased with her) reported: A woman was betrothed to a man of the Ansars. The Messenger of Allah (peace and blessings of Allah be upon him) said: Was there no amusement with you? Verily the Ansars become pleased with amusement. (*Bukhari*)

For this reason the proclamation of marriage by beating of duffs and other lawful means within moderate limits, and holding of marriage-feasts have been allowed. It is only with regard to evil songs or poetries which bring a sense of immorality that the ban has been imposed.

\*\*\*\*\*

## CHAPTER 7

### DOWER AND DOWRY

*Mahr* or dower as it is usually translated is either a sum of money or other form of property to which the wife becomes entitled by marriage. According to the Holy Qur'an, the dower (*mahr*) is given as a free gift by the husband to the wife at the time of contracting the marriage :

"And give the women (on marriage) their dower as a free gift." (4 : 4)

The payment of dower on the part of the husband is an admission of the independence of the wife, for she becomes the owner of property immediately on her marriage, though before it she may not have owned anything. The settling of a dower on the woman at the marriage is obligatory. The Qur'an says :

"And lawful for you are all women besides those, provided that you seek them with your property, taking them in marriage, not committing fornication. Then as to those whom you profit (by marrying), give them their dower as appointed." (4 : 24)

The payment of dower is also necessary in the case of



marriage with a slave-girl. The Holy Qur'an says:

"So marry them with the permission of their masters and give them their dower justly." (4: 25)

In the case of a Muslim marrying a woman from among the People of the Book, the payment of dower is obligatory. The Holy Qur'an says:

"And the chaste from among the believing women and the chaste from among those who have been given the Book before you, when you have given them their dower, taking them in marriage." (5: 5)

It would appear from this that the Holy Qur'an renders the payment of dower necessary at the time of marriage. The payment of the dower was necessary even though it might be a very small sum. In exceptional cases, marriage is legal even though the amount of dower has not been specified at the time of *Nikah*, but it is obligatory and must be paid afterwards. Thus the Holy Qur'an says:

"There is no blame on you if you divorce women when you have not touched them, or appointed for them a dower." (2: 236)

This shows that marriage is valid without specifying dower. Tradition also speaks of the validity of a marriage, even though no mention of dower is made at the time of *Nikah*. But the dower must be paid, either at the time of consummation of marriage or afterwards. The amount of dower in this case would depend upon the circumstances of the husband and the position of the wife. The Holy Qur'an makes this clear by requiring the provision for wife to depend upon the circumstances of the husband. The Holy Qur'an says:

"The wealthy according to his means and the straitened according to his means." (2: 236)

In a tradition it is reported that the case of a woman whose husband had died before fixing a dower and consum-

mating marriage, was referred to 'Abdullah bin Mas'ud (Allah be pleased with him) who decided that she should be paid a dower according to the dower of the women of like status with herself, and this decision was afterwards found to be in accordance with the decision of the Messenger of Allah (peace and blessings of Allah be upon him) in a similar case (*Abu Dawud*). In jurisprudence, it is called customary dower (*mahr mithl*). Therefore even if no sum has been specified at the time of marriage she is entitled to her proper dower (*mahr mithl*) which is customarily fixed for the females of her family, and is to be paid afterwards, and if unpaid in the husband's lifetime, it is a charge on his property after his death. The plain words of the Holy Qur'an require its payment at the time of marriage, having exceptional cases when it may be determined or paid afterwards. Imam Malik follows this rule and renders payment necessary at the time of marriage, while Imam Abu Hanifa treats it more or less as a debt.

So far as the dower (*Mahr*) or nuptial gift is concerned, it should be clearly borne in mind that it has no relation to the purchase-money with which the women are purchased — the practice that we find in pre-Islamic Arabia and in so many countries and tribes of the modern age. *Mahr* is in fact the token of love that is offered by the bridegroom to the bride while contracting marriage with her.

**Amount of Dower:** No hard and fast rule has been specified by the Holy Qur'an about the amount of dower. It is to be adjudged according to the social status of the parties, their wealth, their personal qualifications, and the condition of the human society. The Holy Qur'an says:

"The wealthy according to his means and the straitened according to his means." (2: 236)

It may be a ring or a stipulation to barley or dates. It may even be fixed on condition of accepting the religion of



Islam. The dower of Umm Habiba (Allah be pleased with her) in marriage with the Messenger of Allah (peace and blessings of Allah be upon him) was fixed at 4,000 dirhams. The *Mahr* of his daughter Fatima (Allah be pleased with her) was 400 dirhams. Some relevant traditions are quoted here to this effect:

Sahl bin Sa'd al-Sa'idi (Allah be pleased with him) reported: A woman came to Allah's Messenger (peace and blessings of Allah be upon him) and said: Messenger of Allah, I have come to you to entrust myself to you (you may contract my marriage with anyone at your discretion). Allah's Messenger (peace and blessings of Allah be upon him) saw her and cast a glance at her from head to foot. Allah's Messenger (peace and blessings of Allah be upon him) then lowered his head. When the woman saw that he had made no decision to her, she sat down. There stood up a person from amongst his companions and said: Messenger of Allah, marry her to me if you have no need of her. He (the Holy Prophet) said: Is there anything with you (which you can give as a dower)? He said: No, Messenger of Allah, by Allah I have nothing. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Go to your people (family) and see if you can find something. The Messenger of Allah (peace and blessings of Allah be upon him) said: See even if it is an iron ring. He went and returned and said: No, by Allah, not even an iron ring, but only this lower garment of mine (Sahl said that he had no upper garment), half of which (I am prepared to part with) for her. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: How can your lower garment serve your purpose, for if you wear it, she would not be able to make any use of it and if she wears it there would not be anything for you? The man sat down and as the sitting prolonged he stood up (in disappointment) and as he was going back Allah's Messenger (peace and blessings of Allah be upon him) commanded him to be called back, and as he came, he

said to him: Do you know any part of the Qur'an? He said: I know such and such *Sura* (and he counted them), whereupon he said: Can you recite them from heart (from your memory)? He said: Yes, whereupon he (Allah's Messenger) said: Go, I have given her to you in marriage for the part of the Qur'an which you know. (*Muslim*)

Abu Salama bin 'Abd al-Rahman reported: I asked 'A'isha, the wife of Allah's Messenger (peace and blessings of Allah be upon him): What is the amount of dower of Allah's Messenger (peace and blessings of Allah be upon him)? She said: It was twelve *uqiyas* and one *nash*. She said: Do you know what is *al-nash*? I said: No. She said: It is half of *uqiya* and it amounts to five hundred dirhams, and that was the dower given by Allah's Messenger (peace and blessings of Allah be upon him) to his wives. (*Muslim*)

'Umar bin al-Khattab (Allah be pleased with him) reported: Beware! don't make dear dower of women. Had it been a cause of honour in the world and piety near Allah, the Messenger of Allah (peace and blessing of Allah be upon him) would have been the first about it. I did not know whether the Messenger of Allah (peace and blessings of Allah be upon him) married any of his wives and got his daughters married for more than 12 *uqiyas*. (*Ahmad, Tirmidhi, Abu Dawud, Nasa'i and Ibn Majah*)

Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whoso gives two handfuls of barley or dates as dower of his wife has rendered (private parts) lawful. (*Abu Dawud*)

Umm Habiba (Allah be pleased with her) reported that she was the wife of 'Abdullah bin Jahash who died in the land of Abyssinia, and then the Negus gave her in marriage to the Messenger of Allah (peace and blessings of Allah be



upon him) and took from him a dower of 4,000 dirhams. Then he sent her to the Messenger of Allah (peace and blessings of Allah be upon him) with Shurahbil bin Hasana. (*Abu Dawud, Nasa'i*)

**Prompt and Deferred Dower:** The latter jurists divided dower into two portions: One is called *Mahr Mua'jjal* (مهرمؤجل) that is, immediately exigible or prompt and the other *Mahr Muajjal* (مهرمؤجل) that is deferred. Whether a dower should be entirely or in part exigible or deferred depends on the contract of the parties and in the absence of any contract, on the custom of the country. Even during the subsistence of the marriage the wife is entitled to demand so much of her dower as is exigible, but she is not entitled during the continuance of the marriage to demand the deferred portion of the dower. It becomes due on the death of either party, or on the dissolution of marriage.

**Dowry:** Dowry is the property which a woman brings to her husband at marriage. It is quite different from dower which is a payment made by the bridegroom to her bride in terms of the contract of marriage. Dower has a legal sanction. It is enjoined in the Holy Qur'an to pay it:

"And give the women (on marriage) their dower as a free gift. . . . ." (4:4)

Dowry is the free gift given by the parents to their daughter at the time of her marriage. Dowry may be given in the form of cash, utensils, furniture, ornaments or clothes. The idea behind dowry is to help the newly formed family to set up a home of their own.

Dowry has no legal requirements in Islam. There is no injunction in the Holy Qur'an about it. It depends upon the sweet will as well as the capability of the parents of the girl to give dowry or not.

Today the problem of giving dowry has become very serious because people have started thinking about it differently. The would-be bridegroom demands it as a matter of right. Mostly such demands are too excessive. The parents of the girl might not afford to meet them. The result, sometime, is that marriage of their girl does not take place. There are many girls in our society who have passed the blooming years of their life at their parents' home waiting idly for their rightful consort.

Some parents, for fear of their daughter being neglected by her prospective husband, try to meet his demands despite their meagre resources. They are burdened in debt on this account. For that reason dowry has become a curse today. There are others who bestow dowry lavishly to display in public eye their wealth and status.

**Evil Practice:** There is in vogue an evil practice among the feudal class of Muslims that they give heavy dowry to their daughter at the time of her marriage and in consequence deprive her of the share of inheritance from their property. This is against the injunction of the Holy Qur'an which says:

"From what is left by parents and those nearest related, there is a share for men and a share for women, whether the property be small or large, — a determinate share." (4:7)

Again the Holy Qur'an says:

"Allah (thus) directs you as regards your children's (Inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is half. . . . These are settled portions ordained by Allah; and Allah is All-Knowing, All-Wise." (4:11)

Dowry is not a religious obligation. People seem to have given it sanctity because the Holy Prophet Muhammad (peace



and blessings of Allah be upon him) had given dowry to his daughter, Hadrat Fatima (Allah be pleased with her), at the time of her marriage. However, there is a vast difference between the dowry given by the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and the one extorted from the parents of the girl today. The dowry gifted to Hadrat Fatima (Allah be pleased with her) consisted of the utility articles of daily use, such as a mattress, a cot, a grindstone, a water-bag, which were partly purchased out of the sale proceeds of the armour of Hadrat 'Ali (Allah be pleased with him).

These items show the reader that the dowry provided to Hadrat 'Ali and Hadrat Fatima (Allah be pleased with them) met the basic needs of a newly-wedded couple. It was gifted out of necessity. The bridegroom, Hadrat 'Ali (Allah be pleased with him) was not an affluent person. He even had not the money to pay dower money or meet the expenses of his marriage. He had no house of his own. It was a rented house in which he brought his wife, Hadrat Fatima (Allah be pleased with her), to live in. He had to sell his armour which the Holy Prophet Muhammad (peace and blessings of Allah be upon him) had himself bestowed upon him. The large paraphernalia generally given to the girl of today cannot be compared with the dowry of Hadrat Fatima (Allah be pleased with her).

It may clearly be understood by every boy and every girl of today who are planning marriage that they are not superior to Hadrat Ali and Hadrat Fatima (Allah be pleased with them). They should, therefore, discourage to be provided large scale dowry as a pre-requisite of marriage. Islam likes moderation. The well-known saying of the Messenger of Allah (peace and blessings of Allah be upon him) is:

“Moderation in affairs is the best of all.” (*Sha'b-al-'Iman*)

Islam does not enjoin any dowry or makes wealth as the deciding factor for taking a woman for wife. Islam provides, on the other hand, dower for the woman from her husband.

\*\*\*\*\*



## CHAPTER 8

### MARRIAGE SERMON (KHUTABA) AND MARRIAGE FEAST (WALIMA)

**Marriage Sermon:** *Khutaba* or delivery of sermon is another factor towards proclamation of marriage, besides what it contributes towards invocation of blessings on the newly married couple. This is a sermon to the couple in short, how they should behave in the married life and what are their rights and obligations towards each other. It also makes them understand that the marriage is no less a factor for saving them from the evils of the devil and for taking them nearer and nearer to Allah. Earthly love is then transferred into heavenly love.

When the friends and relatives of both the parties have assembled, a sermon is delivered by someone from among the party, or by the Imam, before announcing the marriage itself. The text of this sermon, as reported from the Messenger of Allah (peace and blessings of Allah be upon him) by Ibn Mas'ud (Allah be pleased with him), consists of *Tashahhud*, with which every sermon generally opens, and to three Verses of the Holy Qur'an. *Tashahhud* is the bearing of witness to the Unity of Allah and prophethood of Muhammad. The

*tashahhud* of the marriage sermon consists of the following words.

الْحَمْدُ لِلَّهِ نَحْمَدُهُ وَنُسْتَعِينُهُ وَنَسْتَغْفِرُهُ وَنَعُوذُ بِاللَّهِ  
مِنْ شُرُورِ أَنْفُسِنَا وَمِنْ سَيِّئَاتِ أَعْمَالِنَا مَنْ يَتَّقِ اللَّهَ فَلَا  
مُضِلَّ لَهُ وَمَنْ يُضِلَّهُ فَلَا هَادِيَ لَهُ - وَأَشْهَدُ أَنْ لَا إِلَهَ  
إِلَّا اللَّهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ -

*Al-hamdu li-llahi nahmadu-hu wa nasta'inu-hu wa nastaghfiru-hu wa na'udhu bi-llahi min shururi anfusi-na wa min sayyi'ati a'mali-na, man yahdi-hi-llahu fa-la mudilla la-hu wa man yudlil fa-la hadiya la-hu, wa ashhadu an la ilaha ill-Allahu wa ashhadu anna Muhammad-an 'abdu-hu wa rasulu-hu.*

"All praise is due to Allah; we praise Him and we beseech Him for help and we ask for His protection and we seek refuge in Allah from the mischiefs of our minds, and from the evil consequences of our deeds; whomsoever Allah guides there is none who can lead him astray and whomsoever He leads astray shall find no guide, and I bear witness that there is no god but Allah and I bear witness that Muhammad is His servant and His Messenger."

After the *tashahhud*, the Messenger of Allah (peace and blessings of Allah be upon him) would take as his text the following three Verses of the Holy Qur'an. All these three Verses remind man of his responsibilities and obligations towards women:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ وَلَا تَمُوتُوا  
إِلَّا وَأَنْتُمْ مُسْلِمُونَ ۝ (١٠٢ : ٣)

*Ya ayyuha-lladhina amanu-ttaqu-llaha haqqa tuqati-hi wa la-tamu-tunna illa wa antum Muslimun.*



"O' ye who believe! Observe your duty to Allah with right observance, and die not save as those who have surrendered (unto Him)." (3:102)

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ  
وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً  
وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ  
عَلَيْكُمْ قَرِيبًا ۝ (٣ : ١)

*Ya-ayyuha-n-nasu-ttaqu Rabba-l kum u-lladhi khalaqa-kum min nafs-in wahidat-in wa khalaqa min-ha zaujaha wa baththa min-huma rijal-an kathir-an wa nisa'a; wa-ttaqu-llaha-lladhi tasa'aluna bi-hi wa-l-arham; inn-Allaha kana 'alai-kum raqiba.*

"O' mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women. Be careful of your duty toward Allah in Whom ye claim (your rights) of one another, and toward the wombs (that bear you). Lo! Allah hath been a Watcher over you." (4:1)

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا  
يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ ۗ وَاللَّهُ عَظِيمٌ  
(٣٣ : ٤٠-٤١)

*Ya-ayyuha-lladhina amanu-ttaqu-llaha wa qulu qaul-an sadiid-an yuslih la-kum a'mala kum wa yaghfir la-kum*

*dhunuba-kum wa man yuti'i-llaha wa rasula-hu fa-qad faza fauz-an 'azima.*

"O' ye who believe! Guard your duty to Allah and speak words straight to the point; He will adjust your works for you and will forgive you your sins. Whosoever obeyeth Allah and His Messenger, he verily hath gained a signal victory." (33:70, 71)

The sermon of course must expatiate on these Verses and explain to the audience the mutual rights and duties of husband and wife. At the conclusion of the sermon the announcement is made that such and such a man and such and such a woman have accepted each other as husband and wife. The dower is also announced at the same time. The man and the woman are then asked if they accept this new relationship, and, on the reply being given in the affirmative, the marriage ceremony proper is concluded. The consent of the woman is generally obtained through her father or other guardian or relative. After the expression of consent by both the parties, the whole audience raises its hands and prays for the blessings of Allah on the newly-wedded couple. Generally some dates or sweets are distributed before the audience disperses.

**Marriage Feast (Walima):** *Walima* is a feast arranged on the occasion of marriage. After *nikah* is over, the bride is conducted to the husband's house, and this is followed by the marriage feast called *Walima*. This feast is another step in the publicity of the marriage, and hence the Messenger of Allah (peace and blessings of Allah be upon him) laid stress on it.

The word *Walima* means the wedding feast. This is so called as it is held on the occasion of wedding. Majority of the jurists hold that it is *Sunnah*, while a few hold that it is *Mustahab* (commendable), and a few *Wajib* (compulsory). This feast should invariably be given by the husband as is



"O' ye who believe! Observe your duty to Allah with right observance, and die not save as those who have surrendered (unto Him)." (3: 102)

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ  
وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً  
وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ  
عَلَيْكُمْ رَقِيبًا ۝ (٣ : ١)

*Ya-ayyuha-n-nasu-ttaqu Rabba-l kum u-lladhi khalaqa-kum min nafs-in wahidat-in wa khalaqa min-ha zaujaha wa baththa min-huma rijal-an kathir-an wa nisa'a; wa-ttaqu-llaha-lladhi tasa'aluna bi-hi wa-l-arham; inn-Allaha kana 'alai-kum raqiba.*

"O' mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women. Be careful of your duty toward Allah in Whom ye claim (your rights) of one another, and toward the wombs (that bear you). Lo! Allah hath been a Watcher over you." (4: 1)

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا  
لِيُصْلِحَ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرَ لَكُمْ ذُنُوبَكُمْ ۗ وَمَنْ يُطِيعِ  
اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا  
(٣٣ : ٤٠-٤١)

*Ya-ayyuha-lladhina amanu-ttaqu-llaha wa qulu qaul-an sadid-an yuslih la-kum a'mala kum wa yaghfir la-kum*

*dhunuba-kum wa man yuti'i-llaha wa rasula-hu fa-qad faza fauz-an 'azima.*

"O' ye who believe! Guard your duty to Allah and speak words straight to the point; He will adjust your works for you and will forgive you your sins. Whosoever obeyeth Allah and His Messenger, he verily hath gained a signal victory." (33: 70, 71)

The sermon of course must expatiate on these Verses and explain to the audience the mutual rights and duties of husband and wife. At the conclusion of the sermon the announcement is made that such and such a man and such and such a woman have accepted each other as husband and wife. The dower is also announced at the same time. The man and the woman are then asked if they accept this new relationship, and, on the reply being given in the affirmative, the marriage ceremony proper is concluded. The consent of the woman is generally obtained through her father or other guardian or relative. After the expression of consent by both the parties, the whole audience raises its hands and prays for the blessings of Allah on the newly-wedded couple. Generally some dates or sweets are distributed before the audience disperses.

**Marriage Feast (Walima):** *Walima* is a feast arranged on the occasion of marriage. After *nikah* is over, the bride is conducted to the husband's house, and this is followed by the marriage feast called *Walima*. This feast is another step in the publicity of the marriage, and hence the Messenger of Allah (peace and blessings of Allah be upon him) laid stress on it.

The word *Walima* means the wedding feast. This is so called as it is held on the occasion of wedding. Majority of the jurists hold that it is *Sunnah*, while a few hold that it is *Mustahab* (commendable), and a few *Wajib* (compulsory). This feast should invariably be given by the husband as is



seen in the following traditions :

Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) noticed a sign of yellow colour on Abdur Rahman bin 'Auf (Allah be pleased with him). He asked: What is this? He replied: I have married a woman for a measure of 5 dirhams of gold. He (the Holy Prophet) said: May Allah bless you. Give a feast even though with a goat. (*Agreed upon*)

Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) gave feast when Zainab, daughter of Jash, was brought to her house. The people ate bread and meat to their heart's content. (*Bukhari*)

Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) emancipated Safiyya (Allah be pleased with her) and married her and made her emancipation a dower. He gave feast for her with dates mixed with curd. (*Agreed upon*)

Safiyya bint Shaiba (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) gave marriage-feast for one of his wives with two 'maunds' of wheat. (*Bukhari*)

'Abdullah bin 'Umar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whenever one of you is invited to a feast of marriage, attend it. (*Agreed upon*)

\* \* \* \* \*

### CONJUGAL SEX RELATIONS IN ISLAM

Islam recognises the sexual instinct so frankly that the Messenger of Allah (peace and blessings of Allah be upon him) himself said: "From the pleasures of the world, perfume and woman were endeared to me; and the delight of my eye is prayer." The sexual instinct is elevated to the rank similar to that of the best perfume on earth, and it is bracketed with prayer which is the best means by which men may come closer to Allah.

The Messenger of Allah (peace and blessings of Allah be upon him) once said: "A man is recompensed for the sexual act he performs with his wife, and when some of the surprised listeners asked the Messenger of Allah (peace and blessings of Allah be upon him): Is the person rewarded for satisfying his passions? The Prophet (peace and blessings of Allah be upon him) replied: Do you not see that if he were to satisfy it in a prohibited manner he would be committing a sin? So if he satisfied it in a lawful manner he will be recompensed." (*Muslim*)

Conjugal relations have a special significance in human affairs and the benefits which accrue from them are incalculable. Peace and satisfaction in the life of the married couple mostly depend upon their mutual good relations. Love is



the main theme adding to the quantum of comforts and happiness between husband and wife. The delights of married life save mankind from mental dispersion and physical dissipation so that the objective of the process of procreation may continue smoothly and pleasantly.

The Holy Qur'an says:

"And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are signs for those who reflect." (31: 21)

Again the Holy Qur'an says:

"He it is Who created you from a single being, and of the same did He make his mate that he might find comfort in her." (7: 189)

Islam has provided ways and means of perpetuating the pleasures of married couple. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) has given clear instructions regarding rights and obligations of a husband and his wife. Briefly his teachings in this regard are that a wife should hold her husband in comparatively higher esteem, she should be faithful and obedient to him; she should dedicate herself for his well-being and in seeking his love. Her salvation, here and in the Hereafter, lies in her husband's pleasure. His advice to a husband is that he should consider his wife a gift from Allah; he should love and respect her; if she commits some mistake he should overlook it and try to reform her weakness patiently; he should meet her needs to the best of his ability and be always careful to provide comforts and consolation for her.

Hadrat Abu Huraira (Allah be pleased with him) is reported to have heard the Holy Prophet Muhammad (peace and blessings of Allah be upon him) as saying: "If prostration

had been permissible to any of Allah's creation I would have ordered a wife to prostrate before her husband." (*Tirmidhi*)

It is narrated by Hadrat 'Abdullah bin Abi Aufa (Allah be pleased with him) that Hadrat Mu'adh bin Jabal (Allah be pleased with him), the celebrated companion of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) had gone to Syria. When he returned from there he paid a visit to the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and bowed before him in prostration. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) asked the companion in astonishment: "What is this, O' Mu'adh!" Mu'adh (Allah be pleased with him) replied: "I had been to Syria. There I saw people prostrating their religious heads and national leaders. I thought we should also prostrate before you." The Holy Prophet Muhammad (peace and blessings of Allah be upon him) forbade me to do so and said: "If I had permitted to prostrate anyone except Allah I would have asked woman to prostrate her husband." (*Ibn Majah*)

It is evident, therefore, that in Islam prostration is done to Allah and to none else, not even to the Best of the Creation, the Last of the Prophets, the Chief of Allah's Messengers, Muhammad (peace and blessings of Allah be upon him). There is not the least doubt that Hadrat Mu'adh (Allah be pleased with him) had prostrated the Holy Prophet Muhammad (peace and blessings of Allah be upon him) simply as a mark of respect to him and not acknowledging him as a Creator. Even this prostration has been forbidden by the Holy Prophet Muhammad (peace and blessings of Allah be upon him).

In Islamic Dispensation a woman is the queen but man is its sovereign. Both have equal rights but their status are different (4: 34). Woman, in her capacity of a good mother and a devoted wife, is the queen of her home, while the



husband is to protect her from all danger and temptation, earn his bread by the sweat of his brow in the open world, and provide for the maintenance of the family. In connection with this setting apart of spheres of work with regard to the nature, constitution, mental habitude and position of the person concerned, the Messenger of Allah (peace and blessings of Allah be upon him) said: "All of you are so many sovereigns, and all of you will be required to render account in respect of whatever persons or things you have under your charge. So the chief who is sovereign over his subjects, shall be questioned about the treatment he accorded to men placed under his control; the head of the family is the sovereign of the house and he shall be questioned with respect to the members of the house; and woman is sovereign in the house of her husband and rules her children and she shall be questioned about these, and the servant is sovereign over his master's belongings, and he shall be questioned about them."

The ruling idea in the teachings of Islam with regard to man and woman, is that the husband and the wife should supplement each other, call into play the distinctive excellence of their respective character, and in mutual confidence, strive to work out their united happiness. Woman is to exercise her beneficent, humanising influence over her husband, soften the hardness of his nature and level down the stiffness of his character; while man, for his part, is to educate her mind and help her to realise those womanly qualities, in which she by her very nature excels. This is the conception of wife-hood which the Messenger of Allah (peace and blessings of Allah be upon him) favoured, as is inferred from some of his sayings. "A woman is married for four reasons", said he, "either in consideration of her wealth, or her noble parentage, or her beauty or piety. Succeed then in getting a woman of piety for your wife, for she is to her husband a helper in life, and she remains content with little."

On another occasion he told a certain woman who had brought a complaint against her husband: "There is no woman who removes something to replace it in a proper place, with a view to decorate her husband's house, but that Allah sets it down as a virtue for her. Nor is there a man who walks with his wife hand in hand, but that Allah sets it down as a virtue for him; and if he puts his arm round her neck in love, his virtue will be increased tenfold."

Once again, he was heard praising the women of Quraish, "because", said he, "they are the kindest to their children while they are infants, and because they keep a careful watch over the belongings of their husbands."

In another instance the Messenger of Allah (peace and blessings of Allah be upon him) said: (There are) four things—whosoever has been gifted with them, has been gifted with the best thing of this world and the next world: A grateful heart, a remembering tongue, a body patient at disasters, and a wife who is not treacherous out of fear regarding herself and his property. (*Baihaqi*)

A Muslim woman is devoutly obedient to her husband and in his absence she guards his reputation and property and her own virtue. On the other hand if she becomes disobedient and disloyal to her husband there will be no peace in the house. Family life will be ruined and children will become delinquents.

Here some more sayings of the Prophet Muhammad (peace and blessings of Allah be upon him), on the question under discussion, are given which will shed more light on the position assigned to women in Islam.

"Among my followers the best of men are they who are best to their wives, and the best of women are they who are best to their husbands. . . . To each of such women is set down the reward equivalent to the reward of a thousand



martyrs. . . . Among my followers, again, the best of women are they who assist their husbands in their work, and love them dearly for everything, save what is a transgression of Laws of Allah. The best of men, on the other hand, are they who treat their wives with the kindness of a mother to her children. To each of such men is set down a reward equivalent to that of a hundred martyrs." On being asked by 'Umar (Allah be pleased with him), who afterwards rose to be the second Caliph, why woman's reward should be ten times greater than man's, the Messenger of Allah (peace and blessings of Allah be upon him) said: "Do know that woman deserves greater reward than man: for, verily, Almighty Allah exalts the position of a man in heaven, because his wife was pleased with him and prayed for him."

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The best of you is he who is best of you to his family, and I am the best of you to my family. (*Tirmidhi and Ibn Majah*)

Hakim bin Mu'awiya from his father reported: I asked: O' Messenger of Allah! what are the rights that a wife has over her husband? The Messenger of Allah (peace and blessings of Allah be upon him) replied: Feed her when thou takest thy food; give her clothes to wear when thou wearest clothes, refrain from either giving a slap on her face or even abusing her; separate not from thy wife save within the house. (*Ahmad, Abu Dawud and Ibn Majah*)

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Certainly the most perfect of the believers in faith is one who is the best of them in conduct, and the most offable of them to his family. (*Tirmidhi*)

Abu Umama (Allah be pleased with him) reported from the Messenger of Allah (peace and blessings of Allah be

upon him) who used to say: Next to fear of Allah, the believer finds nothing good for him than a virtuous wife. If he bids her, she obeys him; if he looks at her, she gives him pleasure; if he gives her a promise, she fulfils it, and if he is absent from her, she guards herself and his property. (*Ibn Majah*)

A virtuous wife is a man's best treasure according to the Messenger of Allah (peace and blessings of Allah be upon him). The object of treasures is to gain comforts, but nothing can give more comfort and solace than a virtuous and chaste wife. She is always a joy to her husband. Besides, a virtuous wife can make her husband and children virtuous. Mother has the greatest share in the formation of character of the children. A virtuous wife centralises love in her husband thereby keeping him in absolute check from extravagant mode of life. A wife is the queen of the household and unless the queen is pious and virtuous, the inmates cannot be expected to turn out good. The picture of a house in which wife is unchaste and impure is horrible to think of. The Messenger of Allah (peace and blessings of Allah be upon him) has spoken of such a wife as a worst calamity in a man's life.

Usama bin Zaid (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: I have not left any trial after me more injurious to men than women. (*Agreed upon*)

Abu Sa'id al-Khudri (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: This world is sweet, green and certainly Allah will make you successors therein, so that He may see how you act. So fear the world and fear (bad) woman, because the first trial of Israelites was in women. (*Muslim*)

Both the above *ahadith* speak of bad and unchaste women. In presence of such women in the household, all



martyrs. . . . Among my followers, again, the best of women are they who assist their husbands in their work, and love them dearly for everything, save what is a transgression of Laws of Allah. The best of men, on the other hand, are they who treat their wives with the kindness of a mother to her children. To each of such men is set down a reward equivalent to that of a hundred martyrs." On being asked by 'Umar (Allah be pleased with him), who afterwards rose to be the second Caliph, why woman's reward should be ten times greater than man's, the Messenger of Allah (peace and blessings of Allah be upon him) said: "Do know that woman deserves greater reward than man: for, verily, Almighty Allah exalts the position of a man in heaven, because his wife was pleased with him and prayed for him."

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The best of you is he who is best of you to his family, and I am the best of you to my family. (*Tirmidhi and Ibn Majah*)

Hakim bin Mu'awiya from his father reported: I asked: O' Messenger of Allah! what are the rights that a wife has over her husband? The Messenger of Allah (peace and blessings of Allah be upon him) replied: Feed her when thou takest thy food; give her clothes to wear when thou wearest clothes, refrain from either giving a slap on her face or even abusing her; separate not from thy wife save within the house. (*Ahmad, Abu Dawud and Ibn Majah*)

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Certainly the most perfect of the believers in faith is one who is the best of them in conduct, and the most offable of them to his family. (*Tirmidhi*)

Abu Umama (Allah be pleased with him) reported from the Messenger of Allah (peace and blessings of Allah be

upon him) who used to say: Next to fear of Allah, the believer finds nothing good for him than a virtuous wife. If he bids her, she obeys him; if he looks at her, she gives him pleasure; if he gives her a promise, she fulfils it, and if he is absent from her, she guards herself and his property. (*Ibn Majah*)

A virtuous wife is a man's best treasure according to the Messenger of Allah (peace and blessings of Allah be upon him). The object of treasures is to gain comforts, but nothing can give more comfort and solace than a virtuous and chaste wife. She is always a joy to her husband. Besides, a virtuous wife can make her husband and children virtuous. Mother has the greatest share in the formation of character of the children. A virtuous wife centralises love in her husband thereby keeping him in absolute check from extravagant mode of life. A wife is the queen of the household and unless the queen is pious and virtuous, the inmates cannot be expected to turn out good. The picture of a house in which wife is unchaste and impure is horrible to think of. The Messenger of Allah (peace and blessings of Allah be upon him) has spoken of such a wife as a worst calamity in a man's life.

Usama bin Zaid (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: I have not left any trial after me more injurious to men than women. (*Agreed upon*)

Abu Sa'id al-Khudri (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: This world is sweet, green and certainly Allah will make you successors therein, so that He may see how you act. So fear the world and fear (bad) woman, because the first trial of Israelites was in women. (*Muslim*)

Both the above *ahadith* speak of bad and unchaste women. In presence of such women in the household, all



peace and domestic happiness is lost and moral progress arrested.

'Abdullah bin 'Amr (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The world, the whole of it, is a commodity, and the best of the commodities of the world is a virtuous wife. (*Muslim*)

Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: When a woman says her five-time Prayers and keeps fasts during the month of Ramadan and guards her private parts, and obeys her husband, let her enter Paradise by whichever door she likes. (Abu Na'eem in *Hilyah*)

The ideal of wifhood in Islam is love and affection and not subordination and servitude. She is regarded as the safeguard for husband against sin and not the 'road to inequity', a strong fortress against inroads of the devil and 'not the gate of the devil', a light house of virtue that saves man from shipwreck when tossed by the raging waves of passion, and not the instrument of devil's works, and a great transformer of a brute husband into an angel. A virtuous wife is the best treasure which a man can justly be proud of. She is the queen of the household because the Messenger of Allah (peace and blessings of Allah be upon him) said that a woman is a ruler over the household of her husband.

'Abdullah bin 'Umar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Behold: each one of you is a king, and each one of you will be asked about his subjects. A leader is a king over the people and he will be asked about his subjects; a man is a king over the members of his household and he will be asked about his subjects; a woman

is a queen over the members of the household of her husband and of his children, and she will be asked about them; a servant of a man is a king over the property of his master, and he will be asked about it. Behold! each one of you is a king, and each one of you will be asked about his subjects. (*Agreed upon*)

She forms the greatest factor in the formation of the character of children and in reclaiming husband from falling on slippery ground of immorality. Indeed, she is a partner in life for consolation and peace.

#### Sexual Intercourse:

Sexual intercourse becomes lawful after marriage but it is not permissible under the following circumstances:

1. A man is not allowed to have sexual intercourse with his wife during menstrual period. The Holy Qur'an says:  
"They question thee (O' Muhammad) concerning menstruation. Say: It is an illness, so let woman alone at such times and go not in unto them till they are cleansed." (2:222)
2. It is not permissible to have a sexual intercourse after birth of a child till the stoppage of blood.
3. It is unlawful to have sexual intercourse during the hours of fasting from pre-dawn to dusk. It is not prohibited during the nights in the month of Ramadan.
4. It is strictly prohibited to have sexual intercourse with the wife through her anus.

#### Homosexuality:

Homosexuality is not only an abomination but also unbecoming to human dignity and respect. Two persons of



the same sex may be attracted to each other but this mutual attraction should manifest warm relationship and unification of the souls and not misuse and debasement of their bodies. It is one of the major sins to have sexual intercourse with a male. The Holy Qur'an says:

"And We sent Lut as a Messenger: Remember that he said to his people, 'Have you become so shameless that you commit such indecent acts as no one committed before you in the world? You gratify your lust with men instead of women: indeed you are a people who are transgressors of all limits.'" (7: 80, 81)

Here and at other places the Holy Qur'an merely declares that sodomy is such a heinous sin that it brought the wrath of Allah on a people. The Holy Qur'an says:

"Of all the creatures in the world, will ye approach males, 'And leave those whom Allah has created for you to be your mates? Nay, ye are a people transgressing (all limits)!' (26: 165, 166)

Again the Holy Qur'an says:

"(We also sent) Lut (as an Apostle): Behold, he said to his people, 'Do ye do what is shameful though ye see (its iniquity)? Would ye really approach men in your lusts rather than women? Nay, ye are a people (grossly) ignorant!'" (27: 54, 55)

In the above Verses mention has been made of that heinous crime which brought about the scourge of Allah on the people who were committing it.

In regard to this there are traditions of the Holy Prophet Muhammad (peace and blessings of Allah be upon him):

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Verily he who comes unto his wife by her back, Allah will not look at him. (*Sharh Sunna*)

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Cursed is he who goes unto his wife by her back. (*Ahmad, Abu Dawud*)

Ibn 'Abbas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The Almighty and Glorious Allah will not look at a man who comes to a man (with lust) or to a woman from her back. (*Tirmidhi*)

Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Verily the most fearful of what I fear over my people is the action of the people of Lut. (*Tirmidhi, Ibn Majah*)

Although wicked people have always been committing this most heinous sin that has given the people of Sodom an everlasting notoriety, yet it has always been considered a filthy and detestable act. But the only people who have ever tried to raise it to a moral excellence, were the Greek Philosophers in the ancient world, and the Europeans in the modern world. The latter are doing their utmost to make up the deficiency by making an open propaganda for it, and have succeeded in giving this filthy act a legal sanction. So much so that the legislatures of some countries have legalized it. It does not require any elaborate argument to show that homo-sexuality is a horrible social crime and a heinous sin. For the Creator has made the male and the female of each and every living species different from and complementary to each other for their reproduction. Then this difference in the human species has been created to serve another purpose. This is to urge the two to live together in order to form a family along with their offsprings. For this is the foundation of a civilized life for which man has been created. That is why their bodies have been made complementary to attract



each other for the satisfaction of sex urges and for the service of the natural function of reproduction of the species. Therefore, the one who satisfies this sex urge in an unnatural way becomes guilty of many crimes at one and the same time.

(1) Such a one, so to speak, wages a war against the natural and physical functionings of his own organs and those victims of his lust. This inevitably produces very harmful effects on their physiques, their minds and their morality.

(2) He becomes guilty of treachery and dishonesty against Nature for he enjoys sexual pleasure, without performing the necessary service of his species and civilization and without fulfilling the rights and obligations attached to it.

(3) He commits a breach of trust against the society in general for he enjoys all the benefits of the civilized society, but in turn does not take on himself the responsibilities of the married life and wastes all his energies in the unnatural gratification of his sexual desires. This selfish and unworthy attitude is not only useless but also positively harmful to the collective morality. Thus he makes himself unfit for the service of the family and of the human race and produces unnatural feminine characteristics in, at least, one other male and opens the way to adultery and moral degradation for at least two women.

It should also be noted that it is unlawful for the husband to commit sodomy with his own wife. In a tradition the Holy Prophet Muhammad (peace and blessings of Allah be upon him) has warned, "The one who cohabits with a woman in her menses or commits sodomy with her or goes to a soothsayer and believes him to be true, is a disbeliever in what has been sent down to Muhammad."

\* \* \* \* \*

## CHAPTER 10

### DUTIES OF A HUSBAND

Before the advent of Islam, woman occupied a degraded position in Society. Islam gave her rights and entitled her to a place of equal honour with man. Man, however, has advantage over woman because of his physical superiority and power of endurance. This advantage has correspondingly enhanced responsibilities of man in all walks of life and brought about a difference in his social status. His field of activities is comparatively wider whether it be his family, neighbourhood, the state or comity of Nations. In fulfilment of his obligations and responsibilities he has to exercise his powers commensurate with his duties and commitments.

The functions of the husband and the wife are quite distinct and each is entrusted with the functions best suited for his or her nature. The Holy Qur'an states that Allah has made man and woman to excel each other in certain respects. The man surpasses woman in constitution and physique. He is to toil hard and bear hardships. On the other hand woman excels man in the qualities of love and affection. Thus the maintenance of the family has been entrusted to man and the responsibility for the up-bringing of children with love and affection lies on the shoulders of woman.



The Holy Prophet Muhammad (peace and blessings of Allah be upon him) was sent as a model for mankind. As an ideal husband he has set noble examples for others to follow. He entered into matrimonial allegiance with Khadija (Allah be pleased with her) when he was in the prime of his youth and she was a widow of forty years. In spite of a wide difference of age the relation between the wife and the husband was most cordial. They had mutual warm appreciation for each other. History bears testimony to this fact that the Holy Prophet (peace and blessings of Allah be upon him) did not re-marry during the life-time of Khadija (Allah be pleased with her) and remembered her frequently after her death. On being asked by 'A'isha (Allah be pleased with her) about the reason of such acute feeling of loss, he (the Holy Prophet) replied:

"O' 'A'isha! When I was in distress, she consoled me. When nobody supported me as a Prophet, she was my supporter."

While leading a family life the ultimate responsibility of running it rests with man. He provides protection to his wife and maintains her because Allah has given him strength. He protects the family from external dangers, hunger, illness and ignorance because he is the head of his family.

Man is the supreme ruler of the house and woman acts as the queen. In this position of authority man has to fulfil certain obligations towards his wife which are as under:

**To Award Dower:** The first and foremost duty of the husband is to award dower (*mahr*) to his wife. In order to safeguard the economic position of women after marriage, Islam has made it legally obligatory on the husband to pay her a reasonable amount as dower. The amount to be fixed as dower depends upon the agreement between the two parties. The husband must comply with the contract regarding the payment of dower. In case he refuses, the wife shall

be justified in resisting the conjugal right of her husband. The dower (*mahr*) is a free gift of the husband to the wife.

According to Islam no marriage can be regarded as legally valid for which dower has not been stipulated. The payment of a wedding gift is the responsibility which the husband can never shirk to fulfil, except the wife is willing to give him respite or remit it in part or in full of her own free will. If under the stress of unavoidable circumstances the husband is unable to pay the whole amount, he is allowed to make payment by instalments with the consent of his wife. In case the husband expires before the dower is paid, it should be paid by his heirs out of his property and assets. If a person marries a woman with no intention of paying the dower, the marriage itself gets invalidated and the husband will be deemed to have committed adultery. The declaration of fabulous amount or a wedding gift as dower at the time of marriage for mere show and false notion of respectability is an undesirable act. It should be fixed according to the means of the husband. It can later be reduced by mutual consent.

**Maintenance:** The second duty of a husband is to provide maintenance to his wife according to his means. The Holy Qur'an says:

"Let him who has abundance spend out of his abundance, and he whose provision is measured, let him spend of that which Allah has given him. Allah asketh naught of any soul save that which He has given it. Allah will vouchsafe after hardship, ease." (65:7)

The husband is therefore responsible for the maintenance of his wife, howsoever rich she may be. He should bear the responsibility of supplying her clothes to wear, food to eat and an abode to reside. He should make liberal provisions for all the needs of his wife. He should never stint in expenses. The Islamic Law obliges the husband to



fulfil all the necessities of her wife as long as she remains his wedded wife. A wife is entitled to maintenance even in the following cases:

Marriage (*Nikah*) has been solemnized, but she has not yet gone to live with her husband and is living with her parents, even then she can claim her maintenance from her husband. In case the husband desires to take her to his house and she does not go, then she cannot claim her maintenance from him.

In case dower (*mahr*) has not been paid by the husband and wife refuses to go to her husband's house, she is entitled to get maintenance from her husband. But if she does not go without any reason, then she is not entitled to any maintenance.

The husband is responsible to pay maintenance to his wife for the period for which a wife lives with her parents with the permission of her husband.

A wife has the right to get maintenance from her husband during her illness whether she is living with her husband or with her parents. But if the husband calls her to his house during the illness and she does not go, then the husband will not be responsible for her treatment. Only maintenance i.e. food and clothes will be due.

In the matter of maintenance the position and status of both the parties shall be taken into account. If both husband and wife are rich, then food and clothing of the wife shall be of the same standard and if both are poor, then it should be of that standard. If one of them is rich while the other is poor, then the food and clothing should be of average standard.

If the wife is sick and cannot perform her house-hold duties or she belongs to a rich family and refuses to do her

domestic work with her own hands or she regards it to be below her dignity, then she may be provided with cooked food. But it is better to do her domestic work with her own hands and as a house wife it is her responsibility. The duty of a husband is to provide means and a wife should manage and run the house.

**Residence:** The third duty of a husband is to provide for her lodging according to his means. The Holy Qur'an says:

"Lodge them where you dwell, according to your means." (65:6)

Husband is responsible to provide for her such place to live in which no other relative of the husband resides so that both husband and wife may reside there freely. But if the wife herself agrees to live with others, then it is permissible.

If a specific part of a house is given exclusively to a wife where she can keep her goods under lock and key and it is in her charge, then the responsibility of a husband is fulfilled.

Even a divorced wife is entitled to her maintenance and a house to live during the period of *'Idda* as a result of divorce. But in case of death of husband she is not entitled to it during the period of *'Idda*.

The husband has therefore to bear the responsibilities of providing boarding, lodging, dress and all other necessities of life for her according to his status and income. The Islamic Law obliges the husband to do this as long as the woman remains his wedded wife.

**Treatment to Wives:** The fourth duty imposed by Islamic Law upon husband is that he should abstain from using his precedential rights in an unjust and cruel manner. The Holy



Qur'an lays the greatest possible stress on kind and good treatment towards the wife. It says:

"Keep them in good fellowship." (22:229)

"Treat them kindly." (4:19)

So much so that kindness is recommended when a man dislikes his wife. The Holy Qur'an says:

"Live with them (wives) on a footing of kindness and equity. If you take a dislike to them it may be that you dislike a thing, and Allah brings about through it a great deal of good. (4:19)

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) laid equally great stress upon good treatment to a wife. It is narrated by Hadrat 'A'isha (Allah be pleased with her) that she heard the Messenger of Allah (peace and blessings of Allah be upon him) as saying: That man amongst you is good who is good to his wife (and he further said) I am good to my wives. (*Tirmidhi*)

Hadrat 'A'isha (Allah be pleased with her) was of very tender age when she was married to the Holy Prophet Muhammad (peace and blessings of Allah be upon him). She had brought dolls from her paternal home to play within her husband's house. Her husband, the Holy Prophet Muhammad (peace and blessings of Allah be upon him), too had graciously allowed Hadrat 'A'isha (Allah be pleased with her) to play dolls with her girl-companions in order to avoid her tedium in the new home. (*Bukhari*)

Hadrat Hakim bin Mu'awiya has narrated from his father: I asked, O' Messenger of Allah! What right has the wife of one of us got over her husband? He (the Holy Prophet) replied: It is that you shall give her food when you have taken your food, that you shall clothe her when you have clothed yourself, that you shall not slap her on the

face, nor revile (her), nor leave (her) alone except within the house. (*Abu Dawud*)

A man who ill-treats his wife or victimises her on account of some bad trait in her, invites Allah's wrath upon him. Hadrat Abu Bakr (Allah be pleased with him) is reported to have heard the Holy Prophet Muhammad (peace and blessings of Allah be upon him) as saying: One who treats badly with those under their authority shall not enter Paradise. (*Tirmidhi*)

In his famous address at the Farewell Pilgrimage, he again laid particular stress on the good treatment of women:

"O' people! You have certain rights over your wives and so have your wives over you . . . . . They are the trust of Allah in your hands. So you must treat them with all kindness."

In a tradition which enjoins kindness to women, the woman is compared to a rib. Hadrat Abu Huraira (Allah be pleased with him) reported that he heard the Messenger of Allah (peace and blessings of Allah be upon him) as saying: O' men! Accept my advice regarding good treatment to your wives. I advise you to treat them with kindness, politeness and toleration. They are created from the rib (which is naturally curved) and its curvature is more at the top; if you try to straighten it by force it will break; and if you leave it, it will stay as it is. So accept my advice and treat your wives with kindness. (*Bukhari*)

Another tradition from the same source runs thus: The Holy Prophet Muhammad (peace and blessings of Allah be upon him) said: "No believer husband can hate his believer wife. If he dislikes her for one thing he will like her for another thing", meaning thereby that a husband should not totally discard his wife and divorce her simply because he dislikes one or two things in her. Surely there must be other



good things in her for which reason she will deserve his love and admiration.

There is a difference in temperaments of man and woman is a fact which cannot be denied. Islam has given due regard to it and exhorted the Muslims to treat women with kindness and tolerate the incompatibility of temperaments. The rib is bent in its make and not straight, and it serves the purpose best in the state in which it has been created. The same is the case with woman. She has been created with some peculiar qualities of physique and mind. She can, therefore, serve her purpose best in this very state; to straighten her, *i.e.* to make her work just as man pleases or to make her perfectly compatible with the temperament of her husband, or to cast her angles of vision and modes of thinking in the moulds of her husband, is not possible in every case. Man should, therefore, treat her with toleration and respect and try to get the maximum which she can do in her own sphere of life and with her own physical and mental equipment.

While, however, great stress is laid on the kind treatment of woman, and it is even recommended that she may be allowed to work in any way she likes, the husband is permitted to take stern measures in case of her immoral conduct. Islam places the highest value upon the chastity of the woman, and therefore, if there is a falling off from the high standard of morality, the woman is not entitled to that honour and kind treatment which is accorded to her otherwise. The Holy Qur'an says:

"As for those from whom ye fear rebellion, admonish them and banish them to beds apart, and scourge them. Then if they obey you, seek not a way against them." (4:34)

If the wife is disobedient and does not obey her husband or does not guard his rights, three measures have

been suggested, but it does not mean that all the three are to be taken at one and the same time. Though these have been permitted, they are to be administered with a sense of proportion according to the nature and extent of the offence. If a mere light admonition proves effective, there is no need to resort to a severer step. As to a beating, the Messenger of Allah (peace and blessings of Allah be upon him) allowed it very reluctantly and even then did not like it. But the fact is that there are certain women who do not mend their ways without a beating. In such a case, the Messenger of Allah (peace and blessings of Allah be upon him) has instructed that she would not be beaten on the face or cruelly, or with anything which might have a mark on the body.

When the disobedience is very ordinary and there is nothing serious about it, for instance, when it is a mere resistance of the husband's authority, the remedy suggested is simple admonition. If hatred is combined with resistance of authority, a stronger remedy is suggested, and the husband is allowed, in that case, to show his disapproval of her conduct by keeping her separated from himself. But if the wife goes beyond that, and deserts the husband, and her conduct becomes suspicious, then, as a last resort, chastisement is permitted. It cannot be denied that cases do happen when this extreme step becomes necessary, but these are exceptional cases and their occurrence is generally limited to the rougher stratum of society where the remedy of slight corporal punishment is not only unobjectionable but necessary.

There are traditions showing that the infliction of slight corporal punishment was permitted only when the conduct of the wife became objectionable, and she was in open revolt against the husband. Thus a tradition in *Muslim* says: "And be careful of your duty to Allah in the matter of women, for you have taken them as the trust of Allah . . . and they owe to you this obligation that they will not allow any one



to come into your house whom you do not like. If they do, then give them (slight) corporal punishment which may not leave any effect on their bodies." This shows that the infliction of slight corporal punishment is limited only to the extreme cases.

Another tradition shows that such conduct on the part of the wife, or such treatment on the part of the husband, would not be expected in any good family. When certain women complained to the Messenger of Allah (peace and blessings of Allah be upon him) of the ill-treatment of their husbands, he is reported to have admonished the men in the following words: "Many women have come to the house of Muhammad complaining about their husbands; such husbands are by no means the good ones among you." (*Abu Dawud*)

*Bukhari* also refers to the tradition of *Muslim* quoted above and gives another under the heading "What is disliked in the matter of giving corporal punishment to women," according to which the Messenger of Allah (peace and blessings of Allah be upon him) is reported to have said: "Let no one of you inflict corporal punishment upon his wife as he would inflict it upon his slave, for he will be having amorous relations with her soon afterwards."

On another occasion too, the husband is allowed to exercise his authority against the wife, and this too is an occasion where the wife's conduct is openly immoral. The Holy Qur'an says:

"And as for those of your women who are guilty of an indecency (*fahishah*), call to witness four of you against them. And if they testify (to the truth of the allegation) then confine them to the houses till death take them or (until) Allah opens some way for them." (4: 15)

Allah's opening a way for them means that they show sincere repentance. The *fahishah* spoken of here is clearly immoral conduct, and the punishment is a restriction on the

woman's movements so that she is deprived of the liberty to move freely in society. Reading this Verse along with Verse 4:34, relating to the infliction of corporal punishment, it appears that confining to the house is the first step, and it is when they repeat their evil deeds in the house, or do not submit to the authority of the husband and desert him, that permission is given to inflict corporal punishment which is the last resort. And if even this step does not make them mend their ways, matrimonial relations may be ended.

In short Islam expects from his believers that they will prove themselves good husbands by treating their wives with love, respect and politeness so that peace and happiness prevail in their family life.

**Equality Among Wives:** In case a man has several wives at the same time, he should show equal treatment to all of them. It is essential for him to keep all of them on equal level and whatever he gives to one wife, the other has equal claim for that. He should divide his companionship with each wife equally. If he stays for one night with one wife, he should stay for one night with the other also. Clothes and ornaments which he gave to one wife, the other also has the right to claim them in the same quantity and quality. There is no difference between the newly wedded wife and old wife. Both have equal rights.

The Holy Qur'an inculcates equality among several wives and if justice is denied, the permission regarding polygamy is withdrawn under this injunction:

"And if you fear that you cannot do justice (to so many women) then (confine yourself to) only one." (4: 3)

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) has laid great stress on the believers that full justice should be done to all the wives. It is reported by *Abu Huraira* (Allah be pleased with him) that the Messen-



ger of Allah (peace and blessings of Allah be upon him) said: When a man has two wives and does not deal equitably between them, he will come on the Day of Resurrection with one side bagging down. (*Nasa'i*)

It is incumbent upon every husband with more than one wife to do full justice to them in treatment and in provision of economic sustenance but he is helpless as far as natural inclination of his mind is concerned. It is therefore, no sin if the husband has greater love for one than the other as the heart and its feelings are beyond one's control. The Holy Qur'an also guides us in this respect. It says:

"You will not be able to deal equally between your wives however much you wish (to do so), but turn not altogether away (from one) leaving her in suspense. If you do good and guard against evils, surely Allah is Ever-Forgiving and Merciful." (4:129)

When the husband has a serious disagreement with his wife and spirit of love and compassion for each other is lost, the conjugal relationship is like a dead body. It is not buried in time, it will stink and spread infections in the atmosphere of home-life. The best solution for it is nothing but to divorce her.

\*\*\*\*\*

## CHAPTER 11

### DUTIES OF A WIFE

As the wife enjoys certain rights which she can demand from her husband, similarly she owes certain obligations to him. The wife must be obedient, God-conscious and virtuous, because she has a *locus-standi* in the society. In case she is unchaste, all peace and domestic pleasure will vanish and moral progress of the family be arrested. That is why the Great Teacher Muhammad (peace and blessings of Allah be upon him) had urged the women to be pious and noble. 'Abdullah bin 'Amr (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The whole world is a provision and the best object of benefit of the world is the virtuous wife. (*Muslim*)

A pious wife is the most precious and best treasure of a man. The object of treasure is to gain comforts but nothing can give more comfort and solace than a good wife. She is always a source of joy for her husband. Besides she can make her husband and children deeply religious. She has the greatest share in the formation of the character of her offspring. She centralises love in her husband due to her polite habits and polished manners and thus checks him from



adopting an extravagant mode of life. Following are the main duties of a wife:

**Guarding Husband's Rights:** The first duty of a wife as pointed out in the Holy Qur'an is to guard the rights of her husband during his absence. She should protect her honour and chastity. She should guard everything belonging to her husband. His possessions include his offspring, his property, his honour, his secrets etc., etc. The Holy Qur'an speaking highly of the pious women says:

"The good women in the absence of their husbands guard their rights as Allah has enjoined upon them to be guarded." (4:34)

A tradition of the Messenger of Allah (peace and blessings of Allah be upon him) is the best commentary on this verse. He (the Holy Prophet) said: The best wife is the one who pleases you when you see her; who obeys your orders and who guards your property and her own honour when you are not at home.

Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: When a woman observes her five-time prayers, keeps fast during the month of Ramadan, guards her chastity and obeys her husband, she becomes entitled to enter Paradise through any of the gates of Paradise she likes. (*Abu Na'eem Hilyah*)

It is reported on the authority of Abu Huraira (Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allah be upon him) was asked about the best woman. He replied: The one who gives pleasure to her husband when he looks at her, obeys him when he bids her, and does not act against his desires regarding his person or property by doing anything of which he disapproves (*Nasa'i*).

The wife would not move out of her house without her husband's permission. She should allow no undesirable

person to enter the house. She should feel a great pleasure in rendering services to her husband.

Thus in Islamic dispensation a woman is the queen of the house but man is its sovereign. Both have equal rights but their status are different. A Muslim woman is devoutly obedient to her husband and in his absence she guards his reputation and property and her own virtue. On the other hand if she becomes disobedient and disloyal to her husband there will be no peace in the house. Family life will be ruined and children will become delinquents.

**Management of the Household Affairs:** The second duty of a wife is to manage her household affairs wisely. She should tastefully decorate and furnish the house. She should keep the house clean and tidy. All the things should be kept in order and used with proper care and skill.

The wife is bound to keep company with her husband, to preserve the husband's property from loss or waste, and to refrain from doing anything which should disturb the peace of the family. She is responsible for the bringing up of the children. She is required not to admit any one into the house whom the husband does not like, and not to incur expenditure of which the husband disapproves. (*Bukhari*) She is not bound to render personal service such as the cooking of food, but the respective duties of the husband and wife are such that each must always be ready to help the other. The wife must help the husband even in the field of labour if she can do it, and the husband must help the wife in the household duties. Of the Prophet (peace and blessings of Allah be upon him) himself it is reported that he used to help his wives in many small works of the household, such as the milking of the goats, patching his clothes, mending his shoes, cleansing the utensils, and so on.



Obedience: The third duty of a wife is to obey the husband. The wife should be obedient and loyal to her husband with a willing heart. She should carry out his orders with a smiling countenance. A house is just like a miniature state where the husband exercises supreme authority and the wife acts as his assistant and associate. In case the head of the state is not obeyed, there will be disorder and disruption in the state. It is therefore, the prime duty of a wife that in matters relating to the well-being and solidarity of the family or in matters which affect the happiness of its members or in matters concerning the training and the upbringing of the children, she must follow the instructions of her husband and not give him any cause of complaint. She should serve her husband whole-heartedly for the sake of the solidarity and betterment of the family. All sorts of bitterness and friction should be swept out from the atmosphere of the house. The wife should hold her husband in high esteem in spite of his short-comings because he is her metaphorical sustainer. Owing to this prominent position of the husband the wife has been stressed to show respect to him. It is reported on the authority of Abu Huraira (Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allah be upon him) said: If I were to order anyone to prostrate himself before another, I would have ordered woman to prostrate herself before her husband. (*Tirmidhi*)

No human being should make prostration to any inferior object because bowing down of forehead before Allah is His sole right. But it is clearly manifested from the above tradition that the wife should have a great regard for her husband.

According to some other traditions of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) it is an obligatory duty of a wife to carry out the orders of her husband. It is reported on the authority of 'A'isha (Allah be pleased with her) that once a camel came and

bowed itself before the Messenger of Allah (peace and blessings of Allah be upon him) when he was accompanied by a large number of the Emigrants and Ansar (Helpers). Thereupon his Companions said: O' Messenger of Allah, beasts and trees bowed themselves before you, but we have more right to do so. He (the Holy Prophet) replied: Worship your Lord and be respectful to your brother. If I were to order anyone to prostrate himself before another, I would order woman to prostrate herself before her husband; and if he were to order her to carry stones from a yellow mountain to a black one, or from a black mountain to a white one, it would be incumbent on her to do so. (*Ahmad*)

It is highly undesirable on the part of a wife to give trouble and anxiety to her husband. Only the obedient woman shall enter Paradise. Umm Salama (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Any lady who dies when her husband is pleased with her, will enter Paradise. (*Tirmidhi*)

It is reported on the authority of Jabir (Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allah be upon him) said: There are three (persons) whose prayer is not accepted and whose virtues are not taken up to heaven, an absconding slave till he returns to his master and puts his hand in his; a woman with whom her husband is angry; and a drunkard till he becomes sober. (*Baihaqi*)

Talq bin 'Ali (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: When a man calls his wife to satisfy his desire, let her come to him even if she is occupied at the oven. (*Tirmidhi*)

Abu Sa'id (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be



upon him) said: A woman may fast (supererogatory) only with her husband's permission. (Abu Dawud)

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whenever a man (husband) calls his wife to his bed and she refuses, and then he spends the night in an angry mood, the angels curse her till she gets at dawn. (Agreed upon)

There is however, one exception to this general rule of obedience. She can flatly refuse if the order is contrary to the spirit of Islam. Obedience of Allah is of far greater importance than obedience to the husband and has precedence over it. Therefore, it is the duty of the wife to refuse to obey her husband, if and when he orders her to do a thing which is against the Commandment of Allah. For instance, if he forbids her to pray or fast (obligatory) during the month of Ramadan, or compels her to drink intoxicants or urges her to indulge in other sinful acts like dancing and singing in public, she can reject his demand and it shall be a sin to obey him. In all other lawful matters it is her duty to obey her husband so much so if the husband orders her not to observe certain voluntary religious devotion, she must obey him otherwise her devotion will not be accepted.

\*\*\*\*\*

## CHAPTER 12

### PURDAH (SECLUSION)

The first Verse of the Holy Qur'an that enjoins purdah is as follows:

"Say to the believing men that they cast down their looks and guard their private parts, that is purer for them. Surely Allah is aware of what they do. And say to the believing women that they cast down their looks and guard their private parts and not to display their decoration except what is unavoidable. They should draw their over-garments close on to their breasts, and should not display their decoration except before their husbands, fathers, fathers-in-law, sons, step-sons, brothers, nephews (sons of brothers and sisters), their own women, male attendants lacking sexual urges, or boys who are not yet conscious of the feminine secrets. Moreover (tell them that) they should not stamp on the ground in walking so as to reveal their hidden decoration (ornaments, etc.) by their jingle." (24: 30, 31)

The main object of these Verses is to secure greater purity of heart and increase chastity of mind, and hence the believers are here reminded that Allah is well aware of what they do, and that it shall be better for them, if they constantly turn to Him. To attain this moral purity, the believing man is first directed to restrain his eyes and observe



continence. Then the believing woman is likewise directed to cover her body and ornaments from public view, to restrain her eyes and observe continence. A Muslim woman is at liberty to go out of her house, if necessary, after she has obtained permission from her husband or guardian. Only, she has to take good care to dress herself properly, so as to cover her person from head to foot, and to walk in the street with restrained eyes.

It is needless to point out, that the injunction with respect to looking down, is useless and uncalled for, if the women are never to walk abroad. Likewise the reference to external ornaments, too, becomes pointless, if women are to appear only before persons mentioned in the Verses quoted above. It is allowable for a woman to uncover her face and her hands, and her feet, when she feels the necessity of going out. The rest of the body must be covered before strangers, but before the persons enumerated in the Verses, it is enough that the part from breast to knee remains covered.

It is clear then, that the Verse quoted above deals with propriety of dress, and forbid women to flirt and coquet, in order to gain admirers. On the other hand, it enjoins upon the beautiful women modesty of deportment, purity of heart, and fear of Allah.

It can be confidently asserted, that the excellent teachings upon chastity, together with the remedies for incontinence, as contained in the Holy Qur'an, are a peculiarity of Islam. One particular point deserves special attention. The natural inclination of man is to sexual desire, over which he cannot have full control, except by undergoing a thorough transformation. The divine injunction in this respect is therefore, not that we may look at strange women and their beauty and ornaments or their gait and dancing, so long as we do it with pure looks, nor that it is lawful for us to listen

to their sweet songs, or to stories of their love and beauty, provided it is done with a pure heart; but that it is never lawful for us, to cast glances at them, whether to lust or otherwise, and to listen to their voices, whether with a pure or an impure heart. We are forbidden to do an act, in the doing of which we are not treading upon sure ground. If the eyes are accustomed to look after strange women, there is a fear, lest this practice should, some time, lead to dangerous consequences. The Word of Allah, as revealed in the Holy Qur'an, therefore, restrains the carnal desires of man, and enjoins upon him, to avoid the occasions where there is danger of the excitement of the evil passions.

**Restraining the Eyes:** The restrictions imposed in the above Verse in respect of men are that they should cast down their looks when they see a woman and that they should guard their private parts. The restrictions in respect of women are as follows:

- (a) They should cast down their looks.
- (b) They should guard their private parts.
- (c) They should draw their over-garments close on to their breasts and should not display their decoration except near relatives mentioned in the Verse.
- (d) They should not strike ornaments over their feet as the use of ornaments whose sounds may be audible is prohibited.

The first Commandment that the males and females have been given is to restrain their eyes from looking at each other. But Divine Commandment does not mean that the people should always cast down their looks and should never look up, but it aims to warn them to beware of the adultery of the eyes. Enjoying the beauty and decoration of the other women by men and making the other men the object of their eyes by women, is liable to lead to evil results.



Obviously, a man who lives in this world with his eyes open will see each and everything. It is not possible that a man will never see a woman or that woman will never see a man. This is why the Law-Giver has absolved from blame the first chance look. But what has been prohibited is that one should cast a second look and stare at the face which one finds attractive at first sight. The following traditions are quoted in this regard:

Jarir bin 'Abdullah (Allah be pleased with him) reported: I asked the Messenger of Allah (peace and blessings of Allah be upon him) about glance at a strange woman. He ordered me to turn away my glance. (*Abu Dawud and Muslim*)

Buraida (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to 'Ali (Allah be pleased with him): O 'Ali! Don't allow your glance to follow a glance, because the first (glance) is for you, and the other is not for you. (*Ahmad, Tirmidhi and Abu Dawud*)

Abu Umama (Allah be pleased with him) reported from the Messenger of Allah (peace and blessings of Allah be upon him) who said: There is no Muslim who casts a first glance at the charms of a woman and then shuts up his eye-sight but Allah creates for him one divine service in which he finds relish. (*Ahmad*)

Sometimes one has to have a look at the other woman, e.g., a female patient who may be under the treatment of a doctor, or a woman who has to appear before a judge as a witness, or as a party. Then one may have to help a woman who is left in a burning place, or a woman who is drowning in water, or a woman whose life or honour is in danger. In such cases, even the shameful parts can be seen if required, and the body can also be touched. So much so that it is not only lawful but obligatory to rescue a drowning or a burning

woman even by carrying her in one's lap. The Law-Giver commands that as far as possible one should keep one's intention pure at such an occasion.

Likewise, it is not only lawful to have a look at a woman before marriage but this has been enjoined by the *Shari'ah*. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) himself had a look at a woman for this purpose.

Mughira bin Sh'aba says, "I sent a message to a woman asking for her hand." The Messenger of Allah (peace and blessings of Allah be upon him) said to me, "Have a look at her, for that will enhance love and mutual regard between you." (*Tirmidhi*)

According to Sahl bin Sa'd (Allah be pleased with him), a woman came to the Messenger of Allah (peace and blessings of Allah be upon him) and said that she intended to offer herself in marriage to him. Hearing this, the Holy Prophet Muhammad (peace and blessings of Allah be upon him) raised his eyes and looked at her. (*Bukhari*)

Abu Huraira (Allah be pleased with him) says that he was sitting with the Holy Prophet Muhammad (peace and blessings of Allah be upon him) when a man came and said that he intended to marry a woman from among the Ansar (Muslims of Medina). The Messenger of Allah (peace and blessings of Allah be upon him) asked him if he had seen her. He replied in the negative. The Holy Prophet (peace and blessings of Allah be upon him) told him to go and have a look at her, because the Ansar had generally some defect in their eyes. (*Muslim*)

According to Jabir bin 'Abdullah (Allah be pleased with him), the Messenger of Allah (peace and blessings of Allah be upon him) said that when a man sent a message to a woman asking for her hand, he should have a look at her



to see if there was anything in her which made him inclined to marry her. (*Abu Dawud*)

If one considers these exceptions carefully one will find that the Law-Giver does not mean to prohibit at all having a look at the other woman, but His real object is to prevent the incidence of evil results. That is why He has prohibited only that casting of the eyes which is not necessary, which does not serve any social purpose, but is charged with sexual motives instead.

This restriction applies both to the males and to the females. Umm Salama (Allah be pleased with her) reported that she and Maimuna (Allah be pleased with her) were near the Prophet Muhammad (peace and blessings of Allah be upon him) when the son of Umm Maktum came and went to him. The Messenger of Allah (peace and blessings of Allah be upon him) said: Observe purdah from him. I (Umm Salama) asked: O' Messenger of Allah, is he not a blind man who does not see us? The Messenger of Allah (peace and blessings of Allah be upon him) said: Are you blind, and do not see him? (*Ahmad, Tirmidhi and Abu Dawud*)

There is, however, a ~~fine~~ psychological distinction between a woman's looking at men and a man's looking at women. The man is by nature aggressive. If a thing appeals to him, he is urged from within to acquire it. On the contrary, the woman's nature is one of inhibition and escape. Unless her nature is totally couped, she can never become aggressive, bold and fearless as to make the first advances towards the male who has attracted her. In view of this distinction, some jurists do not regard the women's looking at the other man to be as harmful as the man's looking at the other women. In several traditions it has been reported that the Holy Prophet Muhammad (peace and blessings of Allah be upon him) had himself shown Hadrat 'A'isha (Allah be pleased

with her) the performance given by the Negro slaves on the 'Id occasion. This tradition has been reported in the Collections by *Bukhari, Muslim, Nasa'i* and *Ahmad* in different ways. This shows that it is not prohibited absolutely for women to have a look at the other men. But what is prohibited is to sit in the same gathering together with men and stare at them in a manner as may lead to evil results.

In short if there is a genuine need or social necessity, casting of the look is lawful. As for the female, however, the law is a bit flexible. She may look at a man even if there is no genuine need, provided that there is no likelihood of mischief. In contrast to this, man is not allowed to look at a woman; unless of course, he casts a chance look.

There is no sin for the glance that one casts accidentally upon a strange woman. The right course on that occasion is that one should turn away one's eyes from her. But if one fixes one's eyes upon her, and sees her deliberately, it is a sin as the Qur'an says:

"Tell the believing men to lower their gaze and be modest. That is purer for them. Lo! Allah is aware of what they do." (24:30)

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) has called these deliberate glances as the immodesty of the eye. Exception is however, made in cases where there is a genuine need of seeing a woman. e.g., medical check-up, or at the time of recording evidence or on the occasion of investigation of crime and before contracting marriage with a woman.

It is an admitted fact that eyes are the messengers who bring the messages to the minds of the onlookers. It is the full view of the fair sex's face and curves of the body which arouses the feelings of love and stirs emotions in



one's heart. Islam, therefore, enjoins the believing men and believing women to keep their eyes down and avoid staring at the opposite sex. They are forbidden to cast evil and critical glances at fair sex. But when women walk about without veil, displaying their beauty and costly costumes, men are naturally attracted. The unhealthy conditions prevailing now-a-days have created difficult problems.

Islam has prohibited free mixing up of the sexes for the reason that a woman unconsciously submits to flattery and advances of a man. She is overpowered by sentiments and emotions rather easily. It is a familiar fact that in America and the Western countries there is much moral degeneration and chaos. The free mixing up of young boys and girls in colleges, clubs, ball-rooms and hotels provides vast opportunities of petting, necking and scandalous behaviour. They indulge fearlessly and unhesitatingly in wicked practices. Thus free intermingling of the sexes has dragged women into the quagmire of pleasure, sensuality and luxury. By the segregation of the two sexes and keeping them apart through the observance of seclusion (purdah) Islam has minimised the chances of moral lapses and hateful deeds to a great extent. In this way the honour of a woman is saved. She cannot be molested and humiliated. When veiled, her beauty or ugliness invites no criticism from the wicked-minded persons.

Apart from the viewpoint of morality, women who do not wear veil have to worry a lot about their make-up and costly fashionable costumes. On the other hand a veiled lady may wear simple and unostentatious dress and go about her business without any fear of curious remarks and uncalled for criticism. She need not go crazy after the preposterous fashions and gaudy dresses. In fact a veil is a blessing for the virtuous women. It is a travesty of truth that purdah-observing women are consigned to the four walls. On the contrary they are at liberty to go out for shopping, attending the

marriage ceremonies of their relatives and seeing their kith and kin. The young girls can attend schools, colleges and other institutions. The veil in no way hinders them from decent pursuits, educational activities and simple recreations.

In the West women are renouncing the role of woman and have to pay heavily for it as it leads them finally to the negation of life itself. They are thus losing their charm and grace, sweetness and modest traits. Women are not only engaged in manly professions but dress like men and act like them, which is a perverted and distorted conception of freedom. The male-like pursuits exercise unhealthy effects upon the mind and physique of woman. The modern psychologists and medical authorities have declared that physically men and women are completely different beings. Her discarding of purdah is incompatible with her physical and temperamental qualities. The masculinised women of the West depict a distressing and disappointing state of affairs. Their masculine ways have made them too uneasy and mentally imbalanced. Their enthusiasm in this respect has degraded them morally and physically. The secret clubs and notorious areas occupied by prostitutes and call-girls are well-known all the world over.

The modern woman denies the home to be the temple of female sex's honour. Her ceaseless pursuit of manly activities has wrecked the home. Her conception of freedom is nothing but emancipation from womanliness.

It is admitted by the decent and wise men of the past and present generations that chastity is an essential virtue of the female sex. But the misguided and misconceived women of the West have no regard for chastity and have ignored the fundamental values of her sex.

Similar injunctions about purdah are contained in the



one's heart. Islam, therefore, enjoins the believing men and believing women to keep their eyes down and avoid staring at the opposite sex. They are forbidden to cast evil and critical glances at fair sex. But when women walk about without veil, displaying their beauty and costly costumes, men are naturally attracted. The unhealthy conditions prevailing now-a-days have created difficult problems.

Islam has prohibited free mixing up of the sexes for the reason that a woman unconsciously submits to flattery and advances of a man. She is overpowered by sentiments and emotions rather easily. It is a familiar fact that in America and the Western countries there is much moral degeneration and chaos. The free mixing up of young boys and girls in colleges, clubs, ball-rooms and hotels provides vast opportunities of petting, necking and scandalous behaviour. They indulge fearlessly and unhesitatingly in wicked practices. Thus free intermingling of the sexes has dragged women into the quagmire of pleasure, sensuality and luxury. By the segregation of the two sexes and keeping them apart through the observance of seclusion (purdah) Islam has minimised the chances of moral lapses and hateful deeds to a great extent. In this way the honour of a woman is saved. She cannot be molested and humiliated. When veiled, her beauty or ugliness invites no criticism from the wicked-minded persons.

Apart from the viewpoint of morality, women who do not wear veil have to worry a lot about their make-up and costly fashionable costumes. On the other hand a veiled lady may wear simple and unostentatious dress and go about her business without any fear of curious remarks and uncalled for criticism. She need not go crazy after the preposterous fashions and gaudy dresses. In fact a veil is a blessing for the virtuous women. It is a travesty of truth that purdah-observing women are consigned to the four walls. On the contrary they are at liberty to go out for shopping, attending the

marriage ceremonies of their relatives and seeing their kith and kin. The young girls can attend schools, colleges and other institutions. The veil in no way hinders them from decent pursuits, educational activities and simple recreations.

In the West women are renouncing the role of woman and have to pay heavily for it as it leads them finally to the negation of life itself. They are thus losing their charm and grace, sweetness and modest traits. Women are not only engaged in manly professions but dress like men and act like them, which is a perverted and distorted conception of freedom. The male-like pursuits exercise unhealthy effects upon the mind and physique of woman. The modern psychologists and medical authorities have declared that physically men and women are completely different beings. Her discarding of purdah is incompatible with her physical and temperamental qualities. The masculinised women of the West depict a distressing and disappointing state of affairs. Their masculine ways have made them too uneasy and mentally imbalanced. Their enthusiasm in this respect has degraded them morally and physically. The secret clubs and notorious areas occupied by prostitutes and call-girls are well-known all the world over.

The modern woman denies the home to be the temple of female sex's honour. Her ceaseless pursuit of manly activities has wrecked the home. Her conception of freedom is nothing but emancipation from womanliness.

It is admitted by the decent and wise men of the past and present generations that chastity is an essential virtue of the female sex. But the misguided and misconceived women of the West have no regard for chastity and have ignored the fundamental values of her sex.

Similar injunctions about purdah are contained in the



Holy Qur'an (*Sura Ahzab*) as under :

"O' Prophet! Tell thy wives and daughters, and the believing women, that they should cast their outer garments over their persons (when outside the home) that is most convenient, that they should be known (as such) and not molested."

The purport of this Verse is quite clear, and requires no elucidation. The wives of the Prophet, as well as the wives of the faithful, are permitted to go abroad, if necessary, and they are required to cover themselves with large wrappers. The object of this qualification, as briefly indicated in the Verse, may be best understood by a reference to the fact that before the revelation of this Verse, both the free women, as well as the slave women used to go abroad, without any wrappers on, and with their heads bare; and wicked men very often affronted them in the streets. If in the case of a free woman, any altercation ensued, these men were ready with their explanation that they took them for slave women. The free women were, therefore, commanded by this Verse, to cover themselves with wrappers, when they walked out of doors, so that they might easily be distinguished from slave women, and thus be safe from the insolence of streetmen. Nor was the wrapper a mere mark of their social status—it was a mark of their chastity as well. For, by using large wrappers, and thereby covering the bodies, including the faces, they bore a silent, but strong testimony to their moral purity, and inspired awe, even in the tainted hearts of wicked people.

Now that we have seen the strictness of laws of purdah, let us see where and why they are relaxed.

**Participation in Battle:** Imagine for a while that the Muslims are engaged in war and emergency has been declared. Circumstances demand that the whole collective strength of the nation should be mustered in defence. Under such extreme conditions Islam enjoins the Muslim women also to contribute their due share to the war effort. But it keeps in view the

fact that woman was created for motherhood and not for killing and shedding blood. Therefore, to equip her with the weapons of war is to distort her very nature. That is why Islam allows women to take up arms only in self-defence, but it does not favour carrying them in the battle-field and recruiting them in the forces. It employs them only to give first aid to the wounded, take water to the thirsty, cook food for the soldiers, and guard the camp in their absence. In order that they may carry out these duties efficiently restrictions of purdah have been considerably relaxed. In fact, they have been allowed by *Shari'ah* to wear the same sort of dress, with a little modification, as is worn by the Christian nuns now-a-days.

Traditions show that the wives of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and the other Muslim women used to give first aid to the wounded and water to the thirsty at the battle-field. This practice remained in force even after the commandments of purdah had been ordained. (*Bukhari*). According to Al-Tirmidhi, Umm Sulaim (Allah be pleased with her) and certain other women from among the Ansar accompanied the Holy Prophet Muhammad (peace and blessings of Allah be upon him) to many a battle-field. According to Al-Bukhari, a woman requested the Messenger of Allah (peace and blessings of Allah be upon him) to pray for her that she might accompany those people who were to go for the naval battle. He prayed, "O' Allah, let her be one of them!" On the occasion of the battle of Uhud, when the soldiers of Islam had been compelled to retreat, Hadrat 'A'isha and Umm Sulaim (Allah be pleased with them) brought leather-bags full of water on their backs and took water to the fighters. Hadrat Anas (Allah be pleased with him) reported that he saw them running to and fro with their trousers tucked up; so much so that the lower part of their shins could be seen. (*Bukhari*) Hadrat 'Umar (Allah be



pleased with him) has reported this saying of the Messenger of Allah (peace and blessings of Allah be upon him) about another woman, named Umm Sulait (Allah be pleased with her):

"During the battle of Uhud, wherever I looked, to the right or to the left, I saw Umm Sulait (Allah be pleased with her) fighting desperately to protect me."

In the same battle, Rubai', daughter of Mu'awwaz, accompanied by a party of women was busy giving first aid to the wounded, and the same women were also carrying the wounded back to Medina. (*Bukhari*) In the battle of Hunain, Umm Sulaim (Allah be pleased with her) was seen moving about with a dagger in her hand. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) asked, "What is this for?" She replied, "If some unbeliever comes near me, I will rip open his belly." (*Ibn Majah*)

Umm 'Atiyya (Allah be pleased with her) took part in seven battles and was responsible for guarding the camp, cooking food for the soldiers, and nursing the wounded and the sick. (*Ibn Majah*). According to Hadrat Ibn 'Abbas (Allah be pleased with him) the women who performed such services in the war were awarded prizes from the booty. (*Muslim*)

This shows that the Islamic purdah is not a custom of ignorance which cannot be relaxed under any circumstances. On the other hand, it is a custom which can be relaxed as and when required in a moment of urgency. Not only is a woman allowed to uncover the face and the hand but even if she has to uncover a part of her *satr* under necessity, there is no harm. But as soon as the necessity is over, she has to observe the normal rules of purdah. Just as this purdah is not a purdah of ignorance, so the relaxation allowed in observing it is not like the licence of ignorance. The Muslim woman cannot be compared with the European woman who came

out of the house in view of the emergency created by war, but even after the war was over, she refused to return to her natural sphere.

#### PREVENTIVE MEASURES:

The feelings of shyness and modesty are natural and instinctive. Their first expression is the natural shyness one feels in exposing one's shameful parts before anyone else. The Qur'an tells us that this shyness has not been artificially created in man by the evolution of civilization nor has it been acquired by him as has been asserted by some disciples of Satan. This is an instinct that has been inherent in man from the first day of his creation.

The sex instinct is the greatest weakness of the human race. That is why Satan selected this weak spot for his attack on the adversary and devised the scheme to strike at their modesty. Therefore, the first step he took in this direction was to expose their nakedness to them so as to open the door of indecency before them and beguile them into sexuality. Even to this day, Satan and his disciples are adopting the same scheme of depriving the woman of the feelings of modesty and shyness, and they cannot think of any scheme of 'progress' unless they expose and exhibit the woman to all and sundry. To check these nudities and indecencies Islam has prescribed the following preventive measures:

(a) **Nudity and Covering of Nakedness:** Islam has given such a correct and psychological interpretation of the sense of modesty in respect of covering the shameful parts of man's body as has no parallel in any civilization. For instance, the men and women of the most civilized nations in the world today do not feel any hesitation to uncover any part of their bodies. For them the dress is a means of decoration and not of covering one's nakedness. But from the Islamic point of



pleased with him) has reported this saying of the Messenger of Allah (peace and blessings of Allah be upon him) about another woman, named Umm Sulait (Allah be pleased with her):

"During the battle of Uhud, wherever I looked, to the right or to the left, I saw Umm Sulait (Allah be pleased with her) fighting desperately to protect me."

In the same battle, Rubai', daughter of Mu'awwaz, accompanied by a party of women was busy giving first aid to the wounded, and the same women were also carrying the wounded back to Medina. (*Bukhari*) In the battle of Hunain, Umm Sulaim (Allah be pleased with her) was seen moving about with a dagger in her hand. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) asked, "What is this for?" She replied, "If some unbeliever comes near me, I will rip open his belly." (*Ibn Majah*)

Umm 'Atiyya (Allah be pleased with her) took part in seven battles and was responsible for guarding the camp, cooking food for the soldiers, and nursing the wounded and the sick. (*Ibn Majah*). According to Hadrat Ibn 'Abbas (Allah be pleased with him) the women who performed such services in the war were awarded prizes from the booty. (*Muslim*)

This shows that the Islamic purdah is not a custom of ignorance which cannot be relaxed under any circumstances. On the other hand, it is a custom which can be relaxed as and when required in a moment of urgency. Not only is a woman allowed to uncover the face and the hand but even if she has to uncover a part of her *satr* under necessity, there is no harm. But as soon as the necessity is over, she has to observe the normal rules of purdah. Just as this purdah is not a purdah of ignorance, so the relaxation allowed in observing it is not like the licence of ignorance. The Muslim woman cannot be compared with the European woman who came

out of the house in view of the emergency created by war, but even after the war was over, she refused to return to her natural sphere.

#### PREVENTIVE MEASURES:

The feelings of shyness and modesty are natural and instinctive. Their first expression is the natural shyness one feels in exposing one's shameful parts before anyone else. The Qur'an tells us that this shyness has not been artificially created in man by the evolution of civilization nor has it been acquired by him as has been asserted by some disciples of Satan. This is an instinct that has been inherent in man from the first day of his creation.

The sex instinct is the greatest weakness of the human race. That is why Satan selected this weak spot for his attack on the adversary and devised the scheme to strike at their modesty. Therefore, the first step he took in this direction was to expose their nakedness to them so as to open the door of indecency before them and beguile them into sexuality. Even to this day, Satan and his disciples are adopting the same scheme of depriving the woman of the feelings of modesty and shyness, and they cannot think of any scheme of 'progress' unless they expose and exhibit the woman to all and sundry. To check these nudities and indecencies Islam has prescribed the following preventive measures:

(a) **Nudity and Covering of Nakedness:** Islam has given such a correct and psychological interpretation of the sense of modesty in respect of covering the shameful parts of man's body as has no parallel in any civilization. For instance, the men and women of the most civilized nations in the world today do not feel any hesitation to uncover any part of their bodies. For them the dress is a means of decoration and not of covering one's nakedness. But from the Islamic point of



view, covering of the shameful parts is more important than mere decoration. Islam enjoins its followers, both male and female, to cover all those parts of their bodies which have attraction for the opposite sex. That is why nudity is an indecency which can never be tolerated by the Islamic *Haya*. Not to speak of others, Islam does not approve that even a husband and his wife should expose their shameful parts before each other. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) said: When one of you goes to his wife, he should mind his shameful parts. They should not both strip their clothes off their bodies and become naked like donkeys." (*Ibn Majah*)

Hadrat 'A'isha (Allah be pleased with her) reported that she never saw the Holy Prophet Muhammad (peace and blessings of Allah be upon him) naked. (*Tirmidhi*)

Over and above all this, the Islamic *Haya* does not approve that one should strip oneself naked even when alone, for "Allah has a greater sight that one should observe *Haya* before Him." (*Tirmidhi*)

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) said :

"Mind, you never be naked, for you are being attended by the angels of Allah who never leave you alone, except at the time when you have to attend to the call of nature or when you go to your wives. Therefore, you should feel ashamed of them and have regard for them." (*Tirmidhi*)

According to Islam, the dress which shows the body and reveals the shameful parts is no dress at all. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) said:

"Those women who remain naked even after wearing clothes, allure others and are allured by others, and walk

coquettishly with the head turned to one side, will never enter Paradise, nor even get its fragrance." (*Muslim*)

In this regard, Islam has first of all eradicated nudity and specified shameful parts which the males and the females have to cover. As regards dress, the conduct of the so-called civilized nations of today is not any different from that of the Arabs of the pre-Islamic period. The Arabs would freely strip themselves naked before each other.<sup>1</sup> Even while having bath and attending to the call of nature they did not bother to have a covering. So much so that they performed the ceremony of moving round the Ka'ba in a naked state, and considered it as an essential part of the worship.<sup>2</sup> More than that, the women would perform this ceremony in perfect nakedness.<sup>3</sup> The dress they wore was such as left a part of their breasts, arms, back and shins uncovered<sup>4</sup> Almost similar are the conditions prevalent in Western countries in respect of dress these days. In the Eastern countries also there is no other social system which may have specified the bounds of nakedness. Islam alone has taught man the first lesson of civilization in this regard.

1 According to a *Hadith*, Hadrat Miswar bin Makhrama (Allah be pleased with him) was carrying a stone towards the Holy Prophet Muhammad (peace and blessings of Allah be upon him) when the garment covering the lower part of his body fell down on the way. He did not care and carried on with the load. When the Messenger of Allah (peace and blessings of Allah be upon him) saw him, he told him to go back and cover his body and refrain from moving naked in future (*Muslim*)

2 Ibn 'Abbas, Mujahid, Ta'us and Zuhri have reported that people used to perform the ceremony of moving round the Ka'ba in the naked state.

3 This custom has been described in the Collection of *Hadith* by *Muslim* : A woman would move round the Ka'ba in a naked state, and then would say to those present, "Who will give me a garment with which I may cover my body?" To meet such a request from a woman was considered to be an act of charity.

4 *Tafsir-i-Kabir*, commentary on verse 31 of *Sura An-Nur*.



The Holy Qur'an says :

"O' Children of Adam! We have sent down to you clothing in order to cover the shameful parts of your body, and to serve as protection and decoration." (7 : 26)

According to this Verse, covering of the body has been made obligatory for every male and female. In this Verse, the Holy Qur'an has used the story of Prophet Adam (peace be upon him) and Eve for the eradication of the evil of nakedness. Satan had seduced the Arabs of the pre-Islamic period into believing that clothing was meant merely for the purpose of decorating and protecting the body from the hardships of weather. Accordingly they totally disregarded its real purpose and paid no heed to cover their shameful parts and did not hesitate to uncover them before others in open.

In this Verse the whole human race has been addressed because this evil was not confined to the Arabs alone but many people of the world had been (and even today are) guilty of this. Therefore the whole human race has been warned, as if to say, "O' Children of Adam! Nudity is a clear manifestation of the fact that you have been seduced by Satan. As you have discarded the Guidance of your Lord, and rejected the Message of His prophets, you have given yourselves up to Satan who has misled you from the way of natural modesty into that shameful state, in which he intended to mislead your first parents. If you consider it seriously, you will come to the inevitable conclusion that you can neither understand rightly the demands of your nature nor fulfil them without the Guidance of the Messengers.

This Verse brings out clearly the following facts about clothing :

1. The need of clothing has not been artificially created in man, but it is an important urge of human nature. That is why Allah has not created a natural covering for the human body, as He has done in the case of all other animals.

Instead, He has instilled inherently the feelings of modesty and shyness in human nature. Besides this, He has not made his sex organs as merely sex organs, but has also made them shameful organs, which, by this very nature, he does not like to expose before others. Moreover, He has not given man any ready-made covering for hiding the shameful parts, but has ingrained in the human nature that man should hide them with a clothing. This is what the above quoted Verse implies. Allah has inspired man with the urge to hide the shameful parts of the body. Therefore man should understand the nature of this inspired urge and make clothing for himself from the material provided by Him.

2. The fact that in the above quoted Verse the covering of the shameful parts precedes the protecting and decorating of the body, is a clear proof that more importance has been attached to the moral than the physical function of clothing. Thus it is obvious that the human nature is quite different from the animal nature. That is why Nature has made provision for the protection and decoration of the body of the animals, but has ingrained no urge in them for the covering of their shameful parts. But when the human beings discarded the Guidance of Allah and began to follow the guidance of Satan, they reversed the above order as if to say, "Your clothing is merely to protect and decorate your bodies just as the skins cover the bodies of the animals. As regards the covering of the shameful parts, garments have absolutely no importance, for these are merely sex organs and not shameful organs."

3. The garments should not only be the means of covering the shameful parts and of protection and decoration but should also enable man to attain piety. The dress should, therefore, be such as to conceal those parts of the body that should be hidden from others; it should neither be too costly nor too poor with regard to the position of the wearers; it should not smack of haughtiness nor arrogance



nor hypocrisy. Moreover, the garment of the piety demands that the male should not wear the female dress and *vice versa*, and that the Muslims should not imitate blindly the non-Muslims in dress. It is obvious that only those who believe in the Guidance of Allah and follow it can attain the desired standard of the garment of piety. But those who discard the Guidance of Allah and make Satan their guides, are misled by them into one error or the other in regard to clothing.

4. Clothing is one of Allah's many Signs which are spread all over the world and which lead men to the recognition of the Reality, provided that one sincerely seeks it. If one seriously considers the above-mentioned three facts about clothing, one can easily understand how clothing is an important Sign of Allah.

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) gave strict orders to the effect that no person should appear naked before any other person:

1. "Accursed is the one who casts a look at the shameful parts of his brother." (*Ahkam al-Qur'an* by Al-Jassas)
2. "No man should look at a naked man and no woman should look at a naked woman." (*Muslim*)
3. "By God, it is better for me to be dropped from the skies and torn in two than that I should look at the shameful parts of somebody or that somebody should look at my shameful parts." (*Al-Mabsut*)
4. "Beware, never strip yourself of clothes, for with you is the one who never leaves you alone, except at the time when you attend to the call of nature or have intercourse." (*Tirmidhi*)
5. "When one of you goes to his wife, he should cover his nakedness even at that time; he should not make himself naked like donkeys." (*Ibn Majah*)

According to another Tradition, once the Holy Prophet Muhammad (peace and blessings of Allah be upon him) went to the pasture meant for the camels of Zakat, and saw that the camel-herd was lying naked on the ground. The Messenger of Allah (peace and blessings of Allah be upon him) ordered his removal forthwith, and said: "We have no use for a person who is shameless."

(b) *Satr*: Islam has laid restrictions upon all kinds of nudities and fixed the limits of exposing certain parts of the body for both men and women. These parts which should be kept covered in any case and not exposed to any person, except to the wife or the husband, or when medical or other pressing necessities required exposure, are called *satr*. The Holy Qur'an says:

"O' Children of Adam, We have sent down to you clothing in order to cover the shameful parts of your body."  
(7:26)

Under this injunction the law has ordained that men should compulsorily cover that part of the body which is between the navel and the knees. A tradition of *Daraqutni* reported by Abu Ayyub Ansari (Allah be pleased with him) says: What is above the knees and what is below the navel should be kept covered. Another tradition reported by Hadrat 'Ali (Allah be pleased with him) states: Do not expose your thighs to anyone and do not look at the thighs of a living or dead person. Another tradition says: The male should cover that part of his body which is between the navel and the knee. (*Al-Mabsut*)

This is a general command which excludes none but the wives. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) says: Guard your *satr* from all except your wives and your slave girls.<sup>1</sup>

<sup>1</sup> *Ahkam al-Qur'an*, Vol. III, p. 37



The bounds of *satr* for the females are wider. They should cover the entire body excepting the face, the hands, and the feet before all men except their own husbands and very close relatives.

A tradition of Abu Dawud says: 'When a woman reaches the age of puberty, no parts of her body should be kept exposed except the face and the hands extending to the joints of the wrist.' Hadrat 'A'isha (Allah be pleased with her) says that she appeared before her nephew 'Abdullah bin al-Tufail, with decorations. The Messenger of Allah (peace and blessings of Allah be upon him) did not approve of it. I said, "O' Apostle of Allah, he is my nephew." The Messenger of Allah (peace and blessings of Allah be upon him) replied: "When a woman attains maturity it is not lawful for her to uncover any part of her body except the face and this" -and then he put his hand on his wrist joint so as to leave only a little space between the place he gripped and the palm. (*Ibn Majah*). More than that it is not approved that a woman should uncover her *satr* even before another woman. Just as it is unlawful for a man to look at any part of a man's body between the navel and the knee, so it is unlawful for a woman to look at the same part of a woman's body.

Just as men have been forbidden to wear pure silk to prevent luxurious living, women have been forbidden to use thin clothing, which instead of covering and hiding the features of their body, makes them all the more prominent. Asma' bint Abu Bakr (Allah be pleased with them), the sister of the Prophet's wife 'A'isha (Allah be pleased with her), once came to the Messenger of Allah (peace and blessings of Allah be upon him) wearing a thin dress which did not properly cover her body. The Messenger of Allah (peace and blessings of Allah be upon him) at once turned away his look and said: Asma'! When a woman has reached the age

of puberty, it is not proper that any part of her body should be seen except her face, hand and feet.

Hafsa, daughter of 'Abdur Rahman came before Hadrat 'A'isha (Allah be pleased with her) and she was wearing a thin wrapper over her head and shoulder. Hadrat 'A'isha (Allah be pleased with her) tore it up to pieces and put a thick wrapper over her. (*Mu'atta*, Imam Malik)

Another tradition states: "Allah has cursed those women who remain naked even after putting on their dress."

Abu Huraira (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) having said thus: Two are the types of the denizens of Hell whom I did not see: People having flogs like tails of the ox with them and they would be beating people, and the women who would be dressed but appear to be naked, who would be inclined (to evil) and make their husbands incline towards it. Their heads would be like the humps of the *bukht* camel inclined to one side. They will not enter Paradise and they would not smell its odour whereas its odour would be smelt from such and such distance. (*Muslim*)

Hadrat 'Umar (Allah be pleased with him) says, "Do not clothe your women in such clothes as are tight fitting and reveal all the curves of the body." (*Al-Mabsut*)

Islam is a way of life. It embraces all spheres of human activities. It has not left any aspect of a man's day-to-day life untouched and unguided. The use of dress is one of the distinguishing traits and characteristics of human beings which no other living species is endowed with. The Holy Qur'an has provided a comprehensive code of dress for Muslim men and women both. It says:

"And say to the believing women that they should lower their gaze and guard their modesty; that they should



not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands. . . ." (24: 30, 31)

The above Verses contain, among other things, two main injunctions :

1. that a Muslim woman should not display her beauty or ornaments except what may ordinarily appear of it.
2. that she should draw a veil over her bosoms and not display her beauty.

In the first injunction, among other things, the parts of the body, which are exempted from covering, are the face and the hands. A Muslim woman is allowed to uncover her face and hands during Pilgrimage and even during the Prayers, while the rest of the body should remain covered.

The second injunction stipulates that the head-cover should be so drawn as to cover not only the hair but also the neck in the way that it extends to the bosom.

Besides it will be consistent with the intent of the Qur'anic Verse cited above that the dress of a Muslim woman must be loose enough so as not to be suggestive of the shape of her body. A woman's body is, naturally, appealing. Its form, curves and eminences must, therefore, remain concealed from strange persons.

Moreover, the dress of a Muslim woman should be thick enough so as not to show the colour of her skin, or reveal the shape and beauty of her body. The dress of a Muslim woman should be such as not to attract men's attention to her beauty. How could a woman's beauty be concealed if her dress is designed in such a way that it attracts other man's eyes to her? That is why the Holy Qur'an, while addressing the wives of the Holy Prophet

Muhammad (peace and blessings of Allah be upon him), provides guidance for other Muslim women in these words :

" . . . . And make not a dazzling display, like that of the former times of ignorance. . . . " (33:33)

To sum up, the whole body of a Muslim woman must remain covered except her hands and face. Her dress should be so tailored as to conceal her entire body. It should be quite loose and designed in such a way that it does not attract the eyes of men towards her.

A Muslim woman may wear whatever she pleases in the presence of her husband and family or among women friends. But when she goes out or when men other than her husband or close family are present she is expected to wear a dress which will cover all parts of her body, and which should not reveal the figure. What a contrast with Western fashions which every year concentrate quite intentionally on exposing yet another erogenous zone to the public gaze! In the past few years we have seen the rise and fall of the mini-dress, the micro-shirt, the wet look, hot pants, the see-thru', the topless and other garments designed to display or emphasize the intimate parts of a woman's body. One may observe a similar tendency of late in men's dress which has become almost skin-tight, although here the men's fashion designers appear to have come to a temporary standstill until men are liberated enough to accept topless or see-thru' trousers, which is fortunately not yet the case.

The intention of Western dress is to reveal the figure, while the intention of Muslim dress is to conceal it, at least in public. The relevant Verse of the Holy Qur'an says:

"O' Prophet, tell your wives and daughters and the women of the believers to draw upon them their overgarments. That is more appropriate so that they may be recognised and not molested." (33: 59)



It is, therefore, required for a Muslim woman when she goes out to wear a dress that covers her from head to foot and does not reveal the figure. According to some scholars only the hands and face should be left uncovered, while according to some others the face should also be covered. There are, therefore, two opinions on this matter.

The onus of modest behaviour however falls not only on women. The above injunctions of the Holy Qur'an are directed to men and women alike.

The modern 'civilized' society has taken precisely to those forms of dress which expose and do not conceal a woman's beauty. The Holy Qur'an which regards chastity as one of the basic moral and social values has directed its injunctions against these ultra modern forms of dress which are meant more to reveal than to conceal. The justification for these restrictions lies in the hidden springs of sex psychology.

Dr. Van de Velde writes:

The male costume of modern times is not as a rule specially sexually accentuated. The exact contrary is the case with female dress, which of late has followed primitive and tropical patterns, and aims not concealing but at enhancing physical charms. From the earliest times, and even when it had to serve as covering from intense cold, it has tended to accentuate and follow the times of secondary sexual characteristics. Examples are numerous: for instance, the low-cut bodice—'decollé' of the seventeenth and eighteenth centuries: the corset, which in its original form literally lifted and pressed forward the bosom, in a dangerously painful fashion; and the wasp-waist, which was constructed in order to emphasize the curves of the bust and the hips. Or, again, the 'Tournure' or 'bustle' of the eighties, which was at first only meant to discreetly indicate the roundness of the feminine posterior—in itself an important sexual attraction, but which became so

exaggerated and unwieldy that it ended by giving the ladies of the most fashionable society a deplorable resemblance to Hottentots.<sup>1</sup>

Fashions such as those of the Directoire and Contemporary periods, which, instead of uncovering the largest possible amount of epidermis, drape the covered portion in light and clinging fabrics, which suggest rather than conceal outlines and give additional suppleness to movements, have a particularly alluring effect—much more so than that of nudity. Women have always recognized and utilized this form of charm in their veils, shawls and shawl-dances, etc.

In view of these facts, it is impossible not to agree that the Qur'anic restrictions on female dress are not only rational but necessary. All the above Commandments are meant for the young women. They became applicable as soon as a woman attains maturity and remain in force for her until she loses all sexual attraction. At this age the severity of the Commandments is also relaxed. The Holy Qur'an says:

"There is no harm if the old women who have no hope of marriage lay aside their over-garments, provided that they do not mean to display their decoration. But if they abstain from this, it is better for them. . . ." (24: 59)

Here the reason for relaxation has been clearly mentioned . . . . "who have no hope of marriage" implies the age at which sexual inclinations die out, and sexual attraction also disappears. Nevertheless, the condition that "they do not mean to display their decoration" has been imposed as a safeguard. That is, if an old woman has a sexual desire hidden in her heart, it is not lawful for her to put away the over-garment. The relaxation is meant only for those old

<sup>1</sup> Dr. Van de Velde, *The Ideal Marriage*.



women whose advanced age has rendered them careless of the restrictions of the dress, and who cannot possibly be looked at except with respect and reverence. Such women are allowed to go about in their houses without the overgarment.

(c) **Prohibition of Display of Fineries:** Apart from the common duty of casting down one's looks in public where men and women may both be present, the Holy Qur'an has laid down two special restrictions on women, namely, that they shall not make a display of their elegance and ornamentation or behave in such a way as to draw the attention of men towards their ornaments and beauty. The women should abstain from displaying their "decorations" outside a restricted circle. The Holy Qur'an says:

"They should draw their coverings over their bosoms and not show their charms except to their husbands, their fathers, their husband's fathers, their sons; their husband's sons, their brothers or their brother's sons, their sister's sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex." (24:31)

According to above Verse the decoration can be displayed in a restricted circle which is as under:

1. The woman has been allowed to display her decoration before her husband, father, father-in-law, son, step-son, brother and nephew (son of sister.).
2. She has also been allowed to display her decoration before her slaves (but not before the slaves of others).
3. She may also appear with decoration before such men as are under her control and command and can have no evil inclination towards her. Hafiz

Ibn Kathir explains this command as follows :

"This means the labourers, servants and other subordinates who are not the equals of the women of a house nor clever and cunning, but simple men who do not cherish sexual desire for the women."<sup>1</sup>

There can be two possible ways in which sexual desire may not be cherished. *Firstly*, one may have no sexual desire at all, as it is in the case of men of advanced age, mentally deranged and feeble-minded men, or eunuchs by birth. *Secondly*, one may have sexual urge and desire, but one may not be able to cherish it for the woman of the house where one is employed as a labourer or servant, or which one visits for alms, due to one's inferior status.

Thus, the command will apply to both categories of men. But it should be borne in mind that the men before whom the women of a house are allowed to appear with decoration must necessarily be under the command and control of that house, and they should not even think of cherishing sexual desire for the women of the house. This is, however, the responsibility of the governor of the house to see that the men who were confided in and allowed to enter the house prove to be reliable. If later on their conduct becomes questionable, permission for them should be cancelled. In this connection, the most relevant is of that eunuch whom the Holy Prophet Muhammad (peace and blessings of Allah be upon him) had permitted to enter the houses, but then, he not only cancelled his permission but also ordered him to leave Medina. This eunuch lived in Medina and used to call on the wives of the Holy Prophet (peace and blessings of Allah be upon him). One day he was sitting in the house of Hadrat Umm Salama (Allah be pleased with her) and talking to her brother, Hadrat 'Abdullah (Allah be pleased with him). In the meantime the Holy Prophet (peace and blessings of Allah be upon him) came and as he entered the house, he heard him say to 'Abdullah,

<sup>1</sup> Ibn Kathir, *Tafsir*, Vol. III, p. 285.



"if Ta'if is taken tomorrow, I will show you Badiab, daughter of Ghailan Thaqfi. . . ." and then he gave minute details of her body so as to allure the hearer. Hearing this, the Messenger of Allah (peace and blessings of Allah be upon him) remarked, "O' enemy of Allah, it seems you have examined her too closely!" Then he said to his wives, "I find that he is aware of the feminine secrets; he should not, therefore, visit you any more." The Messenger of Allah (peace and blessings of Allah be upon him) did not rest content with this, but turned him out of Medina and ordered him to stay at Baida'. For he found from the description he gave of *satr* of the daughter of Ghailan that because of his effeminate nature of women became as free with him as they would with any of their own women. And this furnished him with opportunity of becoming aware of the feminine secrets which he would describe before men in a manner as could lead to evil consequences.<sup>1</sup>

4. She may also display her decoration before such children as may not yet have developed sexual feelings, or, according to the Holy Qur'an, "such boys as may not yet be aware of the feminine secrets."
5. She is also permitted to appear with decoration before the women with whom she has every day social relations. The words used in the Qur'an imply such women as are of noble character, or have family or blood relations, or one of equal rank. All other women besides those who may not be well-known, or may be of doubtful character, or notorious on account of their evil ways, are excluded from the permission, for contact with them can easily lead to evil results.

That is why Hadrat 'Umar (Allah be pleased with him) wrote to Hadrat Abu Ubaida bin al-Jarrah (Allah be pleased

1 *Bazl al-Majhud : Kitab al-Libas.*

with him), Governor of Syria, to prohibit the Muslim women from going to baths with the women of the People of the Book.<sup>1</sup> Hadrat Ibn 'Abbas (Allah be pleased with him) says, "A Muslim woman is not allowed to display herself before the women of the unbelievers and non-Muslim tax payers, any more than she can display herself before the other men."<sup>2</sup>

This did not mean to create any religious distinction. It only aimed at safeguarding the Muslim women against the influence of the women whose moral and cultural background was not fully known, or if known to some extent, it was objectionable from the Islamic point of view. However, the Muslim women have been allowed to mix freely with those non-Muslim women who are of noble character, chaste and well-mannered.

If we consider these limits carefully, we can draw two conclusions: *First*, the decoration that can be displayed in this restricted circle does not include the female *satr*. It means the ornaments, decent clothing, use of collyrium and henna, hairdos and all other decorations that women are by nature fond of displaying in their houses.

*Second*, this kind of decoration can either be displayed by a woman before the males for whom she is permanently unlawful, or before those who lack sexual desire, or those who are incapable of becoming a source of evil. That is why permission has been restricted in the case of women to "their own women", in the case of men to those "lacking sexual instincts", and in the case of children to those "who are not yet aware of the feminine secrets." This shows that Law-Giver means to restrict the display of decoration by

1 Ibn Jarir : Commentary on V. 31 of Sura An-Nur

2 *Tafsir-i-Kabir* : Commentary on V. 31 of Sura An-Nur.



women to a limited circle, so as to reduce to minimum the chances of emotional excitement or sexual anarchy on account of the female charms and decoration.

Woman has been prohibited to display her fineries before all other men, outside this circle. So much so that she is not allowed even to stamp the ground in walking lest her hidden decoration should be revealed by its jingle, and thus attract attention. The decoration which she has been commanded to conceal from the other men is the same which she has been allowed to display in the above-mentioned circle. The object is clear. That is, if women are allowed to appear in full make-up freely before men who neither lack sexual desire, nor are immune from sexual urges because of permanent unlawfulness, the consequences warranted by human nature will inevitably follow. It cannot, however, be claimed that such a display of fineries shall turn every woman into a prostitute, nor that every man shall become an adulterer. But at the same time nobody can deny that if women go about in full make-up and mix freely with men, it is likely to result in countless open and secret moral and material disadvantages for the society.

Today women in the Western countries are spending the major portion of their own and their husbands' incomes on make-up and decoration, and the rising expenditure on this account is becoming more and more unbearable. Is not this craze the gift of the lustful eyes that eagerly wait to greet decorated ladies in the bazars and streets, offices and social gathering? The question is: Why is this craze for beautification among women becoming more and more catching every day?—Most surely, it is due to the feminine urge to

win the approbation of men and to fascinate them.<sup>1</sup> But what for? Is it an innocent urge? Does it not spring from the hidden sexual desires which crave for their fulfilment outside their lawful, natural sphere by similar desires on the other side? If one denies this, then one may perhaps have no hesitation to deny that underneath a volcano over-shadowed by smoke there is always something called lava forcing for an outlet. One may act and behave as one may please, but one should not close one's eyes to facts. These facts are no longer hidden; they have become manifest and their results are as clear as the sun. Even so they are acknowledged consciously or unconsciously by everybody in daily life. Islam, however, checked such trends and means to nip the evil in the bud. That is why it looks with concern upon the seemingly "innocent" display of decoration, which eventually sends the whole society to its doom. According to a *Hadith*, "A woman who freely mixes with the other people and shows off her decoration is without light and virtue." (*Tirmidhi*)

The Holy Qur'an prohibits the display of decoration by women before the other people except what is unavoidable. People have tried to exploit this exception to serve their own "theories." But the difficulty is that these words do not allow much scope for misinterpretation. What the Law-Giver means to say is, that a woman should not display her decoration before others on purpose, but she is not responsible for that which cannot be helped. That is, one should not show

1 The craze for beautification among women is now costing them even their lives. Their ideal is to become as light and slim as possible by avoiding to put on even an ounce of extra flesh. Every girl endeavours to keep herself within the beauty measurements set by experts for the shin, the thigh, the breast, etc., as if the sole object of her life was to appear more and more attractive and appealing to others. To achieve this object she goes on a restricted diet and deprives herself of the nourishing food. She lives only on lemon juice, bitter coffee and other light refreshments, and uses such drugs without medical advice, mostly against medical advice, as may render her slim. Many women have lost their lives in the craze.



women to a limited circle, so as to reduce to minimum the chances of emotional excitement or sexual anarchy on account of the female charms and decoration.

Woman has been prohibited to display her fineries before all other men, outside this circle. So much so that she is not allowed even to stamp the ground in walking lest her hidden decoration should be revealed by its jingle, and thus attract attention. The decoration which she has been commanded to conceal from the other men is the same which she has been allowed to display in the above-mentioned circle. The object is clear. That is, if women are allowed to appear in full make-up freely before men who neither lack sexual desire, nor are immune from sexual urges because of permanent unlawfulness, the consequences warranted by human nature will inevitably follow. It cannot, however, be claimed that such a display of fineries shall turn every woman into a prostitute, nor that every man shall become an adulterer. But at the same time nobody can deny that if women go about in full make-up and mix freely with men, it is likely to result in countless open and secret moral and material disadvantages for the society.

Today women in the Western countries are spending the major portion of their own and their husbands' incomes on make-up and decoration, and the rising expenditure on this account is becoming more and more unbearable. Is not this craze the gift of the lustful eyes that eagerly wait to greet decorated ladies in the bazars and streets, offices and social gathering? The question is: Why is this craze for beautification among women becoming more and more catching every day?—Most surely, it is due to the feminine urge to

win the approbation of men and to fascinate them.<sup>1</sup> But what for? Is it an innocent urge? Does it not spring from the hidden sexual desires which crave for their fulfilment outside their lawful, natural sphere by similar desires on the other side? If one denies this, then one may perhaps have no hesitation to deny that underneath a volcano over-shadowed by smoke there is always something called lava forcing for an outlet. One may act and behave as one may please, but one should not close one's eyes to facts. These facts are no longer hidden; they have become manifest and their results are as clear as the sun. Even so they are acknowledged consciously or unconsciously by everybody in daily life. Islam, however, checked such trends and means to nip the evil in the bud. That is why it looks with concern upon the seemingly "innocent" display of decoration, which eventually sends the whole society to its doom. According to a *Hadith*, "A woman who freely mixes with the other people and shows off her decoration is without light and virtue." (*Tirmidhi*)

The Holy Qur'an prohibits the display of decoration by women before the other people except what is unavoidable. People have tried to exploit this exception to serve their own "theories." But the difficulty is that these words do not allow much scope for misinterpretation. What the Law-Giver means to say is, that a woman should not display her decoration before others on purpose, but she is not responsible for that which cannot be helped. That is, one should not show

1 The craze for beautification among women is now costing them even their lives. Their ideal is to become as light and slim as possible by avoiding to put on even an ounce of extra flesh. Every girl endeavours to keep herself within the beauty measurements set by experts for the shin, the thigh, the breast, etc., as if the sole object of her life was to appear more and more attractive and appealing to others. To achieve this object she goes on a restricted diet and deprives herself of the nourishing food. She lives only on lemon juice, bitter coffee and other light refreshments, and uses such drugs without medical advice, mostly against medical advice, as may render her slim. Many women have lost their lives in the craze.



off nor display one's fineries before others, not even by causing it to jingle in order to attract attention. On the contrary, one should try one's utmost to hide one's fineries, but if in spite of that some part of it remains uncovered, Allah will not take one to task for it. Obviously, the outer garments with which one hides one's decoration will remain uncovered. Similarly, one's stature, physical build and figure cannot be hidden. Then one may have sometimes to uncover one's hand and a part of one's face for a genuine need. This is not prohibited, for it is not done with a desire to show off. One cannot possibly avoid it. If a mean person draws pleasure from it, he will suffer for his own evil intention. The woman who performed her moral and social duty as well, she could be absolved from all blame.

This is the correct meaning of the Verse in question. Though the commentators hold different views about its interpretation, yet all their differences boil down to the meaning as explained above.

According to Ibn Mas'ud, Ibrahim Nakh'i and Hasan Basri, the external decoration implies those garments which the woman puts on to cover the internal decoration, for instance, the overgarment or the veil.

According to Ibn 'Abbas, Mujahid, 'Ata', Ibn 'Umar, Anas, Zuhak, Sa'id bin Jubair, Auza'i and the Hanafite *Imams*, it means the face and the hand including the articles meant for their decoration, for instance, henna, rings, collyrium, etc.

Sa'id bin al-Musayyib holds that the face only is excepted and he is supported in this view by Hasan Basri also in one of his sayings.

Hadrat 'A'isha (Allah be pleased with her) opines that the face should be covered and holds that the external decoration implies the hands, bangles, rings, etc.

Miswar bin Makhrama and Qatada (Allah be pleased with them) allow the uncovering of the hands along with their decoration, but it appears that they only favour the uncovering of the eyes and not the whole face.<sup>1</sup>

If we consider these differences carefully, we shall find that according to all these commentators, Allah has allowed the exposure of that decoration which is unavoidable, or which one has to reveal for a genuine need. On the contrary, no one has supported the view that the face and the hands should be displayed on purpose. What they have tried to interpret according to their rights and in view of the genuine needs of women is how far the face and the hand may be displayed if so required, or what cannot be helped. Let us not restrict "except what is unavoidable" to any of these conditions. A Muslim woman who means to follow the Commands of Allah and His Prophet faithfully, and who is also not prepared to get involved in scandal, can herself decide according to her own conditions, and requirements whether she should cover or uncover her face and hands, when and to what extent. In this regard, the Law-Giver has neither specified any laws nor is it wise and proper to devise such laws in view of the different circumstances and conditions of the people.

A woman who is required by circumstances to go out and work will have to uncover both her face and her hands at times. Such a woman is allowed to do so as and when required by the occasion. On the contrary, the woman whose circumstances are different is not allowed to do so intentionally, without a genuine need.

Thus, according to the Law-Giver, it is sinful to display anything with a view to showing off one's charms. But if something is displayed which is unavoidable, it is not sinful.

<sup>1</sup> All these sayings have been taken from the Commentary by Ibn Jarir and *Ahkam al-Qur'an* by al-Jassas.



Moreover, if one is required to uncover any part of one's body under a genuine need, one is allowed to do so. Now the question arises: What is the Command about the face itself, irrespective of the difference of circumstances? Does the Law-Giver approve its uncovering or disapprove it? May one uncover it only if required under inevitable circumstances, or is it something which may not at all be hidden from anybody? Answers to these questions have been given in Verses 59 of *Sura al-Ahzab* which reads as under:

"O' Prophet! tell thy wives and daughters and the believing women, that they should cast their outer garments over their persons (when abroad): That is most convenient, that they should be known (as such) and not molested: And Allah is Oft-Forgiving, Most Merciful."

(d) **The Veil:** Basically, the question of the veil in Islam is but one aspect of a more general problem, which is this:

- (a) Interdiction for men and women alike to strip off their clothing.
- (b) Modesty and decency commanded to those who live in society, whether they belong to one sex or the other, for the preservation of morality.

"On these two principles, all civilized people have agreed throughout successive stages of history, as discretion and reserve in clothing are obviously social requirements. Thereby man distinguishes himself from animals, in ways of life and relations with his fellowmen. Hence the transition from primitive states, where man is still naked, to civilization is indicated, before anything else, by concern in dressing oneself with all available means. In this way, man wanted to separate himself, as a civilized human being from animals."

Starting from this general principle, which mankind commonly accepted, throughout the years, civilized men

contrived to make clothes for themselves, according to their needs and possibilities, and to the nature of the climate. This has been considered as the first attire of man in society, and one of the first measures imposed by morality. The Holy Qur'an reasserted such civilized conceptions in these terms:

"O' Childern of Adam! We have revealed unto you raiment to conceal your shame, and splendid vesture, but the raiment of restraint from evil, that is best."  
(7:26)

This is the position of Islam, whose mission was summed up in these words of the Holy Prophet Muhammad (peace and blessings of Allah be upon him): "Allah has sent me in order to bring morality to a state of perfection."

"As always in case of command or prohibition, Islam proceeded in setting minimal limitations, which could never be exceeded. Within these limitations, it left man free to choose his own way of dressing, depending on particular circumstances and personal means. Even a certain refinement in clothes, without lavishness, was recommended, as long as modesty and decency were respected."

Thus, in the case of men, the minimal limit for ritual prayer was covering of the body from just above the navel to just below the knees, while in the case of women, the injunction was that they must keep the whole body covered, only the hands and face being permitted to be kept uncovered. Women were advised to wear loose clothes and, in addition, to employ a long cape from head to foot for use when going out.

Now it so happened that depraved elements began to molest Muslim ladies, and tried to excuse themselves off by saying that they had thought them to be slaves. Upon this, the wives and daughters of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and of the rest



of the believers were told to draw their cloaks close round them when setting out so that they be known to be respectable ladies. This involved covering of the face by drawing the head-dress low over it, permitting the women to see their way but not the passers-by to have a look at their faces.

The veil therefore, has been prescribed in the interest of decency and for protecting women from molestation. The Holy Qur'an says:

"O' Prophet, enjoin your wives and daughters and women of the Muslims to let down over them a part of their outer-garments; it is expected that they will thus be recognised and not molested." (30:59)

*Jilbab* was a long piece of cloth which the women of Arabia put on over their clothes when going out. There are several traditions to support that this was taken to mean that the cloth should be worn in such a manner that the face is not left fully exposed. This is to be observed specially when women are eligible for marriage.

This Verse specially enjoins the covering of the face. This may be done either by drawing a part of the outer-garment in front of the face or by a veil, or in some other way. The Holy Qur'an says that when the Muslim women go out thus covered, they will be considered as respectable women, and not as lewd ones, and therefore, no body will think of molesting them.

All the Commentators of the Holy Qur'an have given the same meaning to this Verse. Hadrat Ibn 'Abbas, commenting on this Verse says:

"Allah has enjoined on the Muslim women that when they go out of their houses under some necessity, they should cover their faces by drawing a part of their outer-garments over their heads."<sup>1</sup>

1 Commentary by Ibn Jarir, Vol. XXII, p. 29.

Imam Muhammad bin Sirin asked Hadrat 'Ubaida bin Sufyan bin al-Harith how one should follow and practise the command of covering the face. Hadrat 'Ubaida put on an outer-garment himself and gave a demonstration by covering his forehead and nose and an eye, leaving only the other eye uncovered.<sup>1</sup>

'Abdullah ibn Jarir Tabari, commenting on this expands it like this:

"O' Prophet, enjoin your wives and daughters and women of the Muslims that when they go out of their houses under some necessity, they should refrain from wearing clothes like the slave-girls, leaving the head and the face uncovered, but they should draw a part of their outer-garments in front of their faces, so that no evil person may molest them, and all may know that they are respectable women."<sup>2</sup>

'Allama Abu Bakr al-Jassas says :

"This Verse shows that the young woman while going out of the house should hide her face from the other people, and cover herself up in such a manner as may express modesty and chastity, so that the people with evil intentions might not cherish false hopes from her."<sup>3</sup>

'Allama Neishapuri says in his *Ghara'ib al-Qur'an*:

"In the beginning of the Islamic era, women used to come out in the shirt and the wrapper only as the women of the Days of Ignorance did, and the dress of the respectable women was not any different from that of the women of inferior status. Then they were enjoined to put on the outer-garments and cover the head and

1 Commentary by Ibn Jarir and *Ahkam al-Qur'an*, Vol. III, p. 457.

2 *Ahkam al-Qur'an*, Vol. III, p. 457.

3 *Ahkam al-Qur'an*, Vol. III, p. 458.



of the believers were told to draw their cloaks close round them when setting out so that they be known to be respectable ladies. This involved covering of the face by drawing the head-dress low over it, permitting the women to see their way but not the passers-by to have a look at their faces.

The veil therefore, has been prescribed in the interest of decency and for protecting women from molestation. The Holy Qur'an says:

"O' Prophet, enjoin your wives and daughters and women of the Muslims to let down over them a part of their outer-garments; it is expected that they will thus be recognised and not molested." (30:59)

*Jilbab* was a long piece of cloth which the women of Arabia put on over their clothes when going out. There are several traditions to support that this was taken to mean that the cloth should be worn in such a manner that the face is not left fully exposed. This is to be observed specially when women are eligible for marriage.

This Verse specially enjoins the covering of the face. This may be done either by drawing a part of the outer-garment in front of the face or by a veil, or in some other way. The Holy Qur'an says that when the Muslim women go out thus covered, they will be considered as respectable women, and not as lewd ones, and therefore, no body will think of molesting them.

All the Commentators of the Holy Qur'an have given the same meaning to this Verse. Hadrat Ibn 'Abbas, commenting on this Verse says:

"Allah has enjoined on the Muslim women that when they go out of their houses under some necessity, they should cover their faces by drawing a part of their outer-garments over their heads."<sup>1</sup>

1 Commentary by Ibn Jarir, Vol. XXII, p. 29.

Imam Muhammad bin Sirin asked Hadrat 'Ubaida bin Sufyan bin al-Harith how one should follow and practise the command of covering the face. Hadrat 'Ubaida put on an outer-garment himself and gave a demonstration by covering his forehead and nose and an eye, leaving only the other eye uncovered.<sup>1</sup>

'Abdullah ibn Jarir Tabari, commenting on this expands it like this:

"O' Prophet, enjoin your wives and daughters and women of the Muslims that when they go out of their houses under some necessity, they should refrain from wearing clothes like the slave-girls, leaving the head and the face uncovered, but they should draw a part of their outer-garments in front of their faces, so that no evil person may molest them, and all may know that they are respectable women."<sup>2</sup>

'Allama Abu Bakr al-Jassas says:

"This Verse shows that the young woman while going out of the house should hide her face from the other people, and cover herself up in such a manner as may express modesty and chastity, so that the people with evil intentions might not cherish false hopes from her."<sup>3</sup>

'Allama Neishapuri says in his *Ghara'ib al-Qur'an*:

"In the beginning of the Islamic era, women used to come out in the shirt and the wrapper only as the women of the Days of Ignorance did, and the dress of the respectable women was not any different from that of the women of inferior status. Then they were enjoined to put on the outer-garments and cover the head and

1 Commentary by Ibn Jarir and *Ahkam al-Qur'an*, Vol. III, p. 457.

2 *Ahkam al-Qur'an*, Vol. III, p. 457.

3 *Ahkam al-Qur'an*, Vol. III, p. 458.



the face so that people might know that they were respectable women, and not immodest ones."<sup>1</sup>

Imam Razi says:

"In the Days of Ignorance, women of the Arab nobility and the slave-girls moved about freely and they were teased by the evil-doers. Allah enjoined on the respectable women to cover themselves up with the outer-garment, and said, ". . . it is expected that they will thus be recognised and not molested." This may have two meanings: *first*, they will be recognised as respectable women from their dress, and will not be teased; *second*, it will be known that they are not promiscuous. For the woman who covers the face, though it is not obligatory to cover it, cannot be expected to uncover her *satr* which is obligatory to cover before the other person. Thus, she will be regarded as a modest and virtuous woman who cannot be expected to do anything indecent."<sup>2</sup>

Qazi Baidavi says:

" . . . . . to let down over them a part of their outer-garments" means that they should draw a part of their outer-garment in front of their face and cover themselves up with the rest of it." . . . it is expected that they will be recognised. . . ." means that they will be distinguished from the slave-girls and the singers, ". . . . . and thus not molested" means that the people of doubtful character will not dare molest them."<sup>3</sup>

These quotations clearly show that right from the time of the Companions of the Holy Prophet (peace and blessings of Allah be upon him) down to the eighth century (A.H.) the one and the same meaning has been attached to this Verse, that we have given above. Then from the traditions

1 Ibn Jarir, Vol. XII, p. 32.

2 *Tafsir-i-Kabir*, Vol. VI, p. 591.

3 *Tafsir-i-Baidavi*, Vol. IV, p. 168.

also we came to know after the revelation of this Verse, Muslim women of that period had started wearing the veil, and the practice of moving about with the uncovered face had been discarded.

In *Mu'atta* and the other Collections of *Hadith* by Abu Dawud, Tirmidhi, etc., it has been reported that the Holy Prophet Muhammad (peace and blessings of Allah be upon him) had forbidden the women to wear the veil over the face and the gloves on the hands while in *Ihram*. This clearly shows that during the blessed period of the Messenger of Allah (peace and blessings of Allah be upon him), the veil and the gloves were in common use for covering the face and the hands. Their use was forbidden only when a woman was dressed for pilgrimage. But this did not mean that women should make an open show of their faces during the course of Hajj. In fact, it aimed to prohibit them from making the veil a part of the humble pilgrim's dress as they usually made it. And we learn from other traditions that while in *Ihram*, the wives of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and the common Muslim women covered their faces from the other people even without the veil. According to Abu Dawud, Hadrat 'A'isha (Allah be pleased with her) reported:

"We, the women, were with the Messenger of Allah (peace and blessings of Allah be upon him), in *Ihram*, and the riders passed by us. So, when they appeared before us, we drew out outer-garments from the head in front of the face, and when they rode past us, we uncovered our faces."

According to *Mu'atta* of Imam Malik, Fatima, daughter of Munzir, reported:

"We used to cover our faces with the outer-garment while in *Ihram*. Once Hadrat Asma', a daughter of Hadrat Abu Bakr (Allah be pleased with them), was with us, but she did not prohibit us from this, (that



is, she did not say that the prohibition of wearing the veil while in *Ihram* also applied to covering of our faces during Hajj days).

According to a tradition reported by Hadrat 'A'isha (Allah be pleased with her) in *fath al-Bari*, chapter *Kitab al-Hajj*:

"A woman dressed in *Ihram* should draw her outer-garment over her head in front of her face. . . ."

A person who considers the words of the Qur'anic Verse, their well-known and generally accepted meaning and the practice during the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him), cannot dare deny the fact that the Islamic *Shari'ah* enjoins on the woman to cover her face from the other people, and this has been the practice of the Muslim women ever since the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) himself. Though the veil has not been specified in the Qur'an, it is Qur'anic in spirit. The Muslim women living at the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) to whom the Qur'an was revealed had made it a regular part of their dress outside the house, and even at that time it was called *Niqab*, the veil.

The person who understands the aims of the Islamic Law and also has some common-sense cannot fail to see that allowing women the freedom to move about with uncovered faces runs counter to the objectives held so dear by Islam. The face is the most impressive part of the human body. It is the index of the natural human charms, the most attractive part and the one possessing great sex appeal for others. To understand this one does not require any extensive knowledge of psychology. If one searches one's own heart, asks for the verdict of one's own eyes, and analyses one's own psychic experiences, one will have to admit (provided

that one is not hypocritical) that of all decorations of the body, the natural charm placed by the Creator in the structure of the face has the greatest sex appeal. That is why if one has to marry a girl, one desires to see her face, if nothing else. If one is shown the whole figure of a girl but not her face, one is not satisfied. This shows that the beauty of the face is by far the most important thing in the human body.

(e) **Prohibition of Entering Houses without Permission:** There are some special restrictions on men circumscribing their freedom of action with a view to guarding their chastity and sexual purity. The entry of men in the houses of other persons is strictly forbidden except with the permission of the inmates. The Holy Qur'an says:

"O' ye who believe, enter not houses other than your own houses until you have asked permission and have saluted their inmates. That is better for you that ye may be heedful. And if you find no one therein, still enter not until permission has been given. And if it be said to you: Turn away, then turn away; that is purer for you, Allah knows that which you do not know."  
(24:27, 28)

During the pre-Islamic period the people freely visited the houses of other persons by saying *Huyyitum Sabahan* and *Huyyitum Masa'n* (Good Morning and Good Evening). At times it became a source of inconvenience to the inmates of the house. Islam laid down new rules of visiting other persons, the most important of which is that none should enter a house other than his own without the explicit permission of the occupants of that house.

Abu Musa Ash'ari (Allah be pleased with him) reported that he went to 'Umar bin al-Khattab (Allah be pleased with him) and greeted him by saying: *As-Salam-u-'Alaikum*, here is 'Abdullah bin Qais, but he did not permit him (to



is, she did not say that the prohibition of wearing the veil while in *Ihram* also applied to covering of our faces during Hajj days).

According to a tradition reported by Hadrat 'A'isha (Allah be pleased with her) in *fath al-Bari*, chapter *Kitab al-Hajj*:

"A woman dressed in *Ihram* should draw her outer-garment over her head in front of her face. . . ."

A person who considers the words of the Qur'anic Verse, their well-known and generally accepted meaning and the practice during the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him), cannot dare deny the fact that the Islamic *Shari'ah* enjoins on the woman to cover her face from the other people, and this has been the practice of the Muslim women ever since the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) himself. Though the veil has not been specified in the Qur'an, it is Qur'anic in spirit. The Muslim women living at the time of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) to whom the Qur'an was revealed had made it a regular part of their dress outside the house, and even at that time it was called *Niqab*, the veil.

The person who understands the aims of the Islamic Law and also has some common-sense cannot fail to see that allowing women the freedom to move about with uncovered faces runs counter to the objectives held so dear by Islam. The face is the most impressive part of the human body. It is the index of the natural human charms, the most attractive part and the one possessing great sex appeal for others. To understand this one does not require any extensive knowledge of psychology. If one searches one's own heart, asks for the verdict of one's own eyes, and analyses one's own psychic experiences, one will have to admit (provided

that one is not hypocritical) that of all decorations of the body, the natural charm placed by the Creator in the structure of the face has the greatest sex appeal. That is why if one has to marry a girl, one desires to see her face, if nothing else. If one is shown the whole figure of a girl but not her face, one is not satisfied. This shows that the beauty of the face is by far the most important thing in the human body.

(e) **Prohibition of Entering Houses without Permission:** There are some special restrictions on men circumscribing their freedom of action with a view to guarding their chastity and sexual purity. The entry of men in the houses of other persons is strictly forbidden except with the permission of the inmates. The Holy Qur'an says:

"O' ye who believe, enter not houses other than your own houses until you have asked permission and have saluted their inmates. That is better for you that ye may be heedful. And if you find no one therein, still enter not until permission has been given. And if it be said to you: Turn away, then turn away; that is purer for you, Allah knows that which you do not know." (24:27, 28)

During the pre-Islamic period the people freely visited the houses of other persons by saying *Huyyitum Sabahan* and *Huyyitum Masa'n* (Good Morning and Good Evening). At times it became a source of inconvenience to the inmates of the house. Islam laid down new rules of visiting other persons, the most important of which is that none should enter a house other than his own without the explicit permission of the occupants of that house.

Abu Musa Ash'ari (Allah be pleased with him) reported that he went to 'Umar bin al-Khattab (Allah be pleased with him) and greeted him by saying: *As-Salam-u-'Alaikum*, here is 'Abdullah bin Qais, but he did not permit him (to



get in). He (Abu Musa Ash'ari) again greeted him with *As-Salam-u-'Alaikum* and said: Here is Abu Musa, but he (Hadrat 'Umar) did not permit him (to get in). He again said: *As-Salam-u-'Alaikum*, (and said) here is Ash'ari (then receiving no response he came back). He (Hadrat 'Umar) said: Bring him back to me. So he went there (in the presence of Hadrat 'Umar) and he said to him: Abu Musa, what made you go back, while we were busy in some work? He said: I heard Allah's Messenger (peace and blessings of Allah be upon him) as saying: Permission should be sought thrice.<sup>1</sup> And if you are permitted, (then get in), otherwise go back. He said: Bring witness to this fact, otherwise I shall do this and that, *i.e.*, I shall punish you. Abu Musa went away and 'Umar (Allah be pleased with him) said to him (on his departure): If he (Abu Musa) finds a witness he should meet him by the side of the pulpit in the evening and if he does not find a witness you would not find him there. When it was evening he (Hadrat 'Umar) found him (Abu Musa) there. He (Hadrat 'Umar) said: Abu Musa, have you been able to find a witness to what you have said? He said: Yes. Here is Ubayy bin Ka'b, whereupon he (Hadrat 'Umar) said: Yes, he is an authentic (witness). He (Hadrat 'Umar) said: Abu Tufail (the Kunya of Ubayy bin Ka'b), what does he (Abu Musa) say? Thereupon he said: Ibn Khattab, I heard Allah's Messenger (peace and blessings of Allah be upon him) as saying so. Do not prove to be a hard (task-master) for the Companions of Allah's Messenger (peace and blessings of Allah be upon him), whereupon he (Hadrat 'Umar) said: Hallowed be Allah, I had heard something (in this connection), but I wished it to be established (as an undeniable fact). (*Muslim*)

1 Permission for entering a house is in three different terms. In the first term, salutations are offered in order to inform the inmates of the house that someone is at the door; in the second term, the name is disclosed; and in the third term the *Kunya* is disclosed so that the identity of the visitor comes clearly before the host.

It is also essential that the visitor should disclose his identity in clear terms. The most correct way of disclosing one's identity to the inmates of the house according to Islam is that one should give full particulars of one's name and *Kunya* so that the person in the house should easily recognise him and no ambiguity is left about him in his mind.

Jabir bin 'Abdullah (Allah be pleased with him) reported: I came to Allah's Messenger (peace and blessings of Allah be upon him) and called him (with a view to seeking permission), whereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Who is it? I said: It is I. Thereupon he (the Holy Prophet) came out saying: It is I, it is I. (*Muslim*)

This *hadith* has been transmitted on the authority of Shu'ba (Allah be pleased with him) with a slight variation of wording and that is: The Messenger of Allah (peace and blessings of Allah be upon him) uttered these words: "It is I, it is I," in the manner as if he disapproved of this. (*Muslim*)

Permission is essential even in case of the houses of those with whom one is closely connected, *e.g.*, mother and father, if they are living in a separate house.

'Ata' bin Yasar (Allah be pleased with him) reported that a man asked the Messenger of Allah (peace and blessings of Allah be upon him) and said: Shall I seek permission to see my mother? 'Yes', said he. The man said: I live with her in the house. The Messenger of Allah (peace and blessings of Allah be upon him) said: Seek permission to go to her. The man said: I serve her. The Messenger of Allah (peace and blessings of Allah be upon him) said: Seek permission to go to her. Do you like to see her naked? No, said he. He said: So seek permission to go to her. (*Muslim*)

'Abdullah bin Mus'ud (Allah be pleased with him) is reported to have said: You should seek permission from your



mother and sisters for entering their houses.<sup>1</sup>

Further, with a view to guarding against the possibility of men finding the female members of their own house without proper covering, it is laid down that no male member should enter his house at night, in the early morning and during midday time of siesta and rest without previous notice. The Holy Qur'an says:

"And when the children among you have attained puberty let them seek permission as those before them sought permission." (24: 59)

And again it says:

"O' Muslims! Let those whom your right hand possess and those of you who have not attained puberty ask permission of you three times, before the morning prayer, and when you put off your clothes at midday (in summer) and after the prayers of night-fall. These are three times of privacy for you." (24 : 58)

Here the Holy Qur'an has laid down three rules for the observance of the male and female members of the house. Women who have attained puberty are usually found half-dressed or lightly dressed at night, during midday in the summer or in the early morning. The male members of the family, with the exceptions already stated, as well as male servants should not enter their rooms or come inside the house without previous notice. Barring these stated periods, they are free to move about as they like. It automatically follows from this that the Holy Qur'an desires that women should keep themselves fully dressed during business hours, so that no opportunity of temptation occurs for males or females. But women who have passed the age of child-birth are exempt from this restriction. Children when they reach the age of puberty are also required to observe these directions.

<sup>1</sup> Ibn Kathir, Vol. V, p. 83.

Strangers of the male sex are required to be circumspect, if they have to ask for something from the female inmates of a house. The Qur'an says on this point:

"And when you ask of them any goods, ask of them from behind a curtain; this is purer for your hearts and for their hearts." (33: 53)

Apart from this general rule of seeking permission, it is also recommended that when a thing is required from the woman folk inside a house, it must be asked from behind a curtain for such a precaution is obvious as women do not sit in their houses formally attired and in the above mentioned way business can be conducted from behind the screen, without observing formalities when dealing with strangers. This is a safeguard against moral slips of both men and women.

Here also the object of imposing the restriction has been stated in these words: "... this is a purer way for your hearts and for theirs." The aim is to safeguard the males and the females against sexual inclination and excitement by keeping them at safe distances, so that they do not grow too intimate and free with each other.

These commandments are meant not only for the other people but also for the servants of the house. Once Hadrat Bilal or Hadrat Anas (Allah be pleased with them) asked Hadrat Fatima (Allah be pleased with her), daughter of the Holy Prophet Muhammad (peace and blessings of Allah be upon him), to hand him her child. She handed it by stretching her hand from behind a curtain (*Fath al-Qadir*), whereas both these gentlemen were the personal attendants of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and lived with him like the other members of his house.

(f) **Peeping into the House:** It is forbidden to peep into the house of another person. Sahl b. Sa'd as-Sa'idi (Allah be



mother and sisters for entering their houses.<sup>1</sup>

Further, with a view to guarding against the possibility of men finding the female members of their own house without proper covering, it is laid down that no male member should enter his house at night, in the early morning and during midday time of siesta and rest without previous notice. The Holy Qur'an says:

"And when the children among you have attained puberty let them seek permission as those before them sought permission." (24:59)

And again it says:

"O' Muslims! Let those whom your right hand possess and those of you who have not attained puberty ask permission of you three times, before the morning prayer, and when you put off your clothes at midday (in summer) and after the prayers of night-fall. These are three times of privacy for you." (24:58)

Here the Holy Qur'an has laid down three rules for the observance of the male and female members of the house. Women who have attained puberty are usually found half-dressed or lightly dressed at night, during midday in the summer or in the early morning. The male members of the family, with the exceptions already stated, as well as male servants should not enter their rooms or come inside the house without previous notice. Barring these stated periods, they are free to move about as they like. It automatically follows from this that the Holy Qur'an desires that women should keep themselves fully dressed during business hours, so that no opportunity of temptation occurs for males or females. But women who have passed the age of child-birth are exempt from this restriction. Children when they reach the age of puberty are also required to observe these directions.

<sup>1</sup> *Ibn Kathir*, Vol. V, p. 83.

Strangers of the male sex are required to be circumspect, if they have to ask for something from the female inmates of a house. The Qur'an says on this point:

"And when you ask of them any goods, ask of them from behind a curtain; this is purer for your hearts and for their hearts." (33:53)

Apart from this general rule of seeking permission, it is also recommended that when a thing is required from the woman folk inside a house, it must be asked from behind a curtain for such a precaution is obvious as women do not sit in their houses formally attired and in the above mentioned way business can be conducted from behind the screen, without observing formalities when dealing with strangers. This is a safeguard against moral slips of both men and women.

Here also the object of imposing the restriction has been stated in these words: "... this is a purer way for your hearts and for theirs." The aim is to safeguard the males and the females against sexual inclination and excitement by keeping them at safe distances, so that they do not grow too intimate and free with each other.

These commandments are meant not only for the other people but also for the servants of the house. Once Hadrat Bilal or Hadrat Anas (Allah be pleased with them) asked Hadrat Fatima (Allah be pleased with her), daughter of the Holy Prophet Muhammad (peace and blessings of Allah be upon him), to hand him her child. She handed it by stretching her hand from behind a curtain (*Fath al-Qadir*), whereas both these gentlemen were the personal attendants of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and lived with him like the other members of his house.

(f) **Peeping into the House:** It is forbidden to peep into the house of another person. Sahl b. Sa'd as-Sa'idi (Allah be



pleased with him) reported that a person peeped through the hole of the door of Allah's Messenger (peace and blessings of Allah be upon him) and he had with him some pointed thing with which he had been adjusting (the hair of his head). Allah's Messenger (peace and blessings of Allah be upon him) said to him: If I were to know that you had been peeping, I would have thrust it in your eyes. Allah has prescribed seeking permission because of protection against glance. (*Muslim*)

Abu Huraira (Allah be pleased with him) reported having heard Allah's Messenger (peace and blessings of Allah be upon him) say: He who peeped into the house of people without their consent, it is permissible for them to put out his eyes. (*Muslim*)

According to Imam Shafi'i the words of this *hadith* should be taken in their literal sense and if someone peeps through the door, and the inmates of the house thrust something in his eyes for his offence, they cannot be held guilty for it, but according to Imam Abu Hanifa, one is not permitted to put out the eye of one who merely peeps through the door, but if one insists upon it, and, in spite of repeated requests and warnings, he does not change his behaviour and forcibly enters the house and in the scuffle to force him out, if his eye sight is lost, the inmate of the house should not be penalised.<sup>1</sup>

Imam Abu Hanifa's argument in favour of his contention is that peeping in the house of another person is not so serious an offence as trespassing his house; when this offence is not to be punished with putting out the eyes, how can a lesser offence be penalised with such a severe punishment? Those who subscribe to the view of Imam Abu Hanifa are of the opinion that it is only with a view to

<sup>1</sup> Jassas, *Ahkam al-Qur'an*, Vol. III, p. 385.

impressing upon the people the gravity of the sin of peeping into the houses of other persons, that the Holy Prophet Muhammad (peace and blessings of Allah be upon him) has expressed it in these stern words.

(g) **Prohibition of Having Privacy with Women:** Another social restriction is that no man or woman is permitted to remain alone with a member of the opposite sex except his or her partner, but women who have passed the age of child-bearing or those with whom, owing to intimate blood-relationship, marriage cannot be contracted are excepted: for example brothers, sisters, parents, nephews, nieces, etc. A well known tradition of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) states, "Whoever believes in Allah and the Last Day should not sit in privacy with a woman without a *Mahram* of her's being present, because Satan will be the third (among them)."

Another tradition reported by 'Aqaba b. 'Amir (Allah be pleased with him) states: Do not go near women when they are alone. One of the Ansar asked: What about the husband's elder and younger brothers? The Messenger of Allah (peace and blessings of Allah be upon him) said: "Intimacy with them is to be avoided as death." (*Tirmidhi*, *Bukhari* and *Muslim*)

A tradition says: Do not go near any woman in the absence of her husband because Satan is circulating as blood in your veins." (*Tirmidhi*)

'Amr b. 'As (Allah be pleased with him) reported a saying from the Holy Prophet Muhammad (peace and blessings of Allah be upon him): The Messenger of Allah forbade us to go near a woman except with the permission of her husband." (*Tirmidhi*)

*Tirmidhi* gives a further tradition saying: "No man should from this day go near a woman unless there are one or two persons with him."



How vividly these traditions describe what occurs when a man and woman are alone together, when the consciousness of their sexuality creeps in between them, affecting their relationship and making them feel for one another what should not be felt, disturbing their inner equilibrium and purity and leading them towards the possibility of sin.

Touching of women is also forbidden, except in cases of grave emergency endangering life or death. A tradition says: "If a person touches a woman with whom he has no legitimate relations, his hands will be burnt on the Day of Judgment." Whenever a woman or a party of women came to the Holy Prophet Muhammad (peace and blessings of Allah be upon him) for taking the pledge of Islam, he refused to stretch his hands. Once Umayma bin Ruqayya (Allah be pleased with her) came with a few women to take the pledge and asked the Messenger of Allah (peace and blessings of Allah be upon him) to give his hand. The Messenger of Allah (peace and blessings of Allah be upon him) refused saying: "I do not shake hands with women; verbal declaration is enough for them." These commandments apply in respect of the young women. It is lawful to sit with the women of advanced age in privacy and touching them is also not prohibited. It has been reported that Hadrat Abu Bakr (Allah be pleased with him) used to visit the clan where he had been suckled and shook hands with the old women. It has been reported about Hadrat 'Abdullah bin Zubair (Allah be pleased with him) that he used to have his feet and head pressed gently for relief by an old woman. This distinction between the old and the young women itself points out that the real object is to prevent such mixing of the sexes together as may lead to evil results.

(h) **Women are Forbidden to Speak in a Soft Tone:** The voice is another agent of the evil spirit. There are countless mischiefs which are caused and spread by the voice. A man and a woman may apparently be absorbed in innocent talk,

but the hidden motive of the heart is at work: it is rendering the voice more and more sweet, and the accent and the words more and more appealing. Women are, therefore, forbidden to indulge in alluringly soft speech which may raise amorous hopes in the person spoken to. The Holy Qur'an says:

"O' Wives of the Prophet! You are not like any other women. If you fear Allah, be not soft in speech lest in whose heart is a disease yearns, and speak good word. And stay in your houses and do not display your finery like the ostentation of the Days of Ignorance." (28:22)

It is a necessary and natural safeguard, as speech is one of the primary sources of sexual excitation. In the opinion of Van de Velde, speech has an over-powering effect on sexual passions. He observes:

"The tone-colour of a voice, and the intonation of a single word—and it may be a word with no special meaning or associations in itself—may excite incredible intensity of desire. The unique and precious significance that a woman's voice can give to "you" or "thou" can suffice to overwhelm a man's powers of endurance and control, or to bring about the climax of erotic expression in the orgasm."<sup>1</sup>

Women have, therefore, been ordered by Islam not to speak in a soft or sexually sweet tone.

It is the same evil desire which finds pleasure and satisfaction in relating or listening to stories about other people's lawful and unlawful sex relations. To satisfy the same urge, lyrical poetry is written and imaginary love romances described which take the people's fancy and spread in society

<sup>1</sup> Van de Velde, *The Ideal Marriage*.



like wild fire. The Holy Qur'an admonishes man about this also:

"Those people who desire to spread indecency and obscenity among the Believers have a grievous torment in store for them in this world and in the Hereafter."  
(24 :19)

The mischief caused by the voice has many other aspects and in each aspect there is one or the other evil motive at work. Islam has detected all these motives and warned man to beware them. For instance, a man is not allowed to describe the features of other women before her husband:

"A woman should not have too close an intimacy with another woman, lest she should describe her before her husband in a manner as if he himself saw her." (Tirmidhi)

Both man and woman have been forbidden to describe their secret sex affairs before other people, because this also causes indecency to spread by creating evil desire in the hearts. (Abu Dawud)

If the Imam commits a mistake in the congregational prayer or he is to be warned of some lapse, men have been taught to say *Subhan Allah* (Allah be Glorified), while women have been commanded to tap their hands only (Abu Dawud)

(i) Use of Scents or Perfumes: Apart from restrictions on dress and speech, women are also forbidden to use scents or perfumes when going out. A tradition from Tirmidhi's Collection states: 'The Messenger of Allah (peace and blessings of Allah be upon him) said that a woman who uses scent or perfume when passing through streets is a profligate woman.' Female should not use perfume when they come out to join congregational prayer. A tradition of *Mu'atta* by Imam Malik says: 'When a woman goes to mosque for offering prayers, she should not use perfume or scent.' Zainab wife of 'Abdullah bin Mas'ud (Allah be pleased with

them) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to us: When one of you is present in the mosque, let her not touch perfume. (Muslim)

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whoso female applies *Bakhur* perfume, shall not be present with us in the last 'Isha' prayer. (Muslim)

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The perfume of men is that of which fragrance comes out and the colour remains hidden, and the perfume of women is that of which the colour comes out and the fragrance remains hidden. (Tirmidhi and Nasa'i) Here again Islam has shown great insight into sex psychology. Perfumes and odours play a great role in exciting sexual emotion. The subject has been discussed in detail by Van de Velde in his *Ideal Marriage* in which he explains how women have always known the sexual effects of odours and perfumes and utilised them for different purposes. Van de Velde goes so far as to remark:

"I am of opinion that experts who use perfumes as aphrodisiacs for their own emotions—perhaps without being fully conscious of this aim—are generally women."<sup>1</sup>

Abu Huraira (Allah be pleased with him) reported: I heard my beloved Abul Qasim (peace and blessings of Allah be upon him) as saying: The prayer of a woman may not be accepted who applies perfume for (going) till she bathes as she would from sexual defilement.<sup>2</sup> (Ahmad, Nasa'i and Abu Dawud)

1 M. Mazheruddin Siddiqi, *Women in Islam*, p. 137.

2 Ahmad and Nasa'i narrated a similar tradition. The portion on which perfume has been applied should be washed and not the entire body, but the washing must be complete so as to leave no trace of perfume.



Abu Musa (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Every eye is a fornicator, and when a woman applies perfume and then passes by an assembly she is like such and such, that is a fornicatress. (*Tirmidhi*)

\*\*\*\*\*

## CHAPTER 13

### MARRIAGE WITH PEOPLE OF THE BOOK

The only ground on which marriage is prohibited in the Holy Qur'an is polytheism (*Shirk*) or associating anything with Allah. The Holy Qur'an says:

"Wed not idolatresses till they believe; for even a believing bondwoman is better than an idolatress, even though she pleases you greatly. And marry not idolaters until they believe; for a believing bondman is better than an idolater, even though he (idolater) pleases you. These call unto the Fire. (2:221)

The reason why the believers have been prohibited from marrying idolatrous (*mushrik*) spouses is that they invite you to the Fire. This means that such marriages might mislead the Muslim spouses to the ways of polytheism, for the relations between the husband and the wife are not merely sexual but spiritual and cultural as well. It is possible that the Muslim spouse may influence the *mushrik* spouse and his or her family and then offsprings in favour of the Islamic way of life. But it is equally possible that the *mushrik* spouse may imbue the Muslim spouse, his (or her) family or their offspring, with the spirit and ways of polytheism. Most probably as a result of such a marriage, a mixture of Islam and un-Islam will be bred in such a family. A non-



Muslim might approve of this, but a Muslim cannot. One who sincerely believes in Islam can never take such a risk merely for the sake of the gratification of his sexual lust. He would rather suppress his passions than do anything that might mislead him to disbelief, blasphemy and polytheism or, at least mislead his progeny.

The Verse which allows marriage with women who profess one of the revealed religions is as under:

"This day are (all) good things made lawful for you. The food of the People of the Book is lawful for you and yours is lawful for them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time, when ye give them their due dowers and desire chastity, not lewdness, nor secret intrigues. (5:5)

Thus it will be seen that while there is a clear prohibition to many idolators or idolatresses, there is an express permission to marry women who profess a revealed religion (*Ahl al-Kitab*). Four points are clearly established from the above Verse:

1. Muslim men can marry from among the women of the People of the Book but;
2. Only such women of the People of the Book as are chaste;
3. Muslim men should contract marriage with women of the People of the Book on payment of dower;
4. Muslim men are not allowed to enter into lewd relationship with women of the People of the Book.

Opinions vary as to which groups are meant by the phrase *Ahl al-Kitab* (People of the Book). Imam Shafi'i is of the opinion that the term "People of the Book" refers only to Jews and Christians who belong to the tribe of Israel.

The other nations who profess faith in Judaism and Christianity are excluded from the term "People of the Book", on the ground that Prophet Musa and Jesus (peace be upon them) were sent only to the tribe of Israel. There is no doubt that the call of Prophet Musa and Jesus (peace be upon them) was addressed only to the tribe of Israel, but those non-Israelites who accepted the Christian faith have also been counted by Allah and His Messenger (peace and blessings of Allah be upon him) as "People of the Book."

In his sacred epistle to the Emperor of Rome, the Messenger of Allah (peace and blessings of Allah be upon him) had addressed the Romans (who had embraced Christianity) as "people of the Book." The Romans were not Israelites.

The term "People of the Book" therefore, connotes Jews and Christians regardless of whether they are Israelite or non-Israelite.

Except the Christians and Jews, those other nations which received Divine Books lost them completely and since their beliefs and practices no longer conformed to the teaching of any Prophet, therefore, the term "People of the Book" is not applicable to them. That is why the Messenger of Allah (peace and blessings of Allah be upon him) did not regard the Magians as "People of the Book," even though they were followers of Zoroaster who may have been a prophet.

In his sacred epistle to the Majus Hajar, the Messenger of Allah (peace and blessings of Allah be upon him) had explicitly stated:

"If you accept Islam, you will enjoy equal rights with us and carry the same obligations as we do. Such of you as refute this call, *Jizya* shall be levied on them. We shall not eat of the flesh of those animals which they slaughter, nor take their women in marriage."



This letter puts it beyond doubt that as far as eating the flesh of animals slaughtered by them or taking their women in marriage is concerned, non-Jews and non-Christians cannot be counted as "People of the Book."

Permission to marry from among the women of the People of the Book alone has been given, and that, too, with the provision that they should be chaste (*muhsanat*). Chastity in woman is, in any case an essential qualification. Hadith also establishes this point. On one occasion the Messenger of Allah (peace and blessings of Allah be upon him) is reported to have said: There are four things. Whoso gets them, he has received all the good that is in this world and in the Hereafter. One, a heart that is grateful for what Allah has granted it. Second, the tongue which commemorates Allah. Third, a body which can sustain hardship. Fourth, a wife who is not inclined to abuse her husband's property or her own chastity. (*Tibrani*)

The Messenger of Allah (peace and blessings of Allah be upon him) said on another occasion: Whoso wishes to go before Allah in a neat and pure condition, he should marry chaste woman. (*Ibn Majah*)

Another tradition quotes the Messenger of Allah (peace and blessings of Allah be upon him) as having said: Do not marry women for their beauty, for it is very likely that their beauty will lead them astray. And do not marry them for the sake of their property and riches, for it is possible that their wealth will make them defiant. What you should seek in them is devotion to religion. A dark, dumb slave-girl who is righteous is better than other women.

There is also a difference in the interpretation of the word *muhsanat*. According to Hadrat 'Umar (Allah be pleased with him), it refers to virtuous and chaste women. That is why he excludes characterless women of the People of the Book from this permission. Hasan, Sh'ibi and

Ibrahim Nakh'i are of the same opinion and the Hanafites also approve of this. On the other side, Imam Shafi'i takes it to mean free women of the People of the Book as apposed to slave girls from among them.

Marriage in Islam is not just a social need, but its principal object is to purify soul, reform morals, develop the culture of Islam and produce generations truly devoted to Islam. Hence it is essential that Muslim men should marry only those women who are righteous, chaste and pure for the system of a righteous Islamic Society can only be built upon marriages between males and females of this character.

There is also a difference of opinion in the details of the application of permission to marry from among the women of the People of the Book. According to Ibn 'Abbas (Allah be pleased with him), a Muslim may marry from among the women of the People of the Book who are the subjects of the Islamic State, but is not permitted to marry from among the women of the People of the Book living in the regions which are at war with the Islamic State or are living in a territory of the disbelievers. The Hanafites differ a little from this and consider it undesirable, though not unlawful, to marry women from among the People of the Book living in a foreign territory. On the contrary, Sa'id bin Musayyab and Hasan Basri are of the opinion that the Command is of a general nature; therefore, there is no need to make any kind of distinction between the People of the Book whether they are subject of an Islamic State or living in a foreign territory.

The warning that immediately follows the permission given to marry women from the People of the Book is very significant. The Muslim who make use of this permission has been warned to guard his faith and morality very cautiously against the influence of his unbelieving wife. There is genuine danger that his deep love might make him a prey to



wrong creeds and acts of his unbelieving wife and he might lose both his Faith and morality, or he might adopt such a wrong moral and social attitude which might be against the spirit of his faith.

Muslim women cannot marry from among the men of the People of the Book. There is a total ban on the marriage of Muslim women with non-Muslim men. The Holy Qur'an says:

"They are not lawful (wives) for the disbelievers, nor are the disbelievers lawful (husbands) for them (60:10)

The option of Muslim woman to marry an unbelieving man is completely closed in the interest of the protection of faith. Human female is passive by nature. She has a greater capacity for yielding to influence than to exercise influence. She is deeply susceptible to the influence of her husband and her environment. In her home life she is often bound to be ruled by her male partner.

It is nearly certain that the Muslim wife of a non-Muslim husband will be completely alienated from Islam and the cultural pattern of Islam.

\*\*\*\*\*

## CHAPTER 14

### POLYGAMY IN ISLAM

Polygamy was practised by the ancient Jews. Among Askenazi Jews, plural marriage had virtually disappeared at the time it was formally forbidden by Rabenu Gershom in the 11th century A.D.<sup>1</sup> Nonetheless, polygamy has continued even until the present day among Oriental Jews among whom it is considered legal but is not generally practised and has become increasingly rare. In Israel today while new second marriages are not allowed, present existing polygamous marriages are recognised.<sup>2</sup>

It should be noted that in actual fact in most cultures polygamy rather than monogamy has been the rule. Monogamy is not even implied in early Christian doctrine and Jesus is now known to have spoken against polygamy.<sup>3</sup> Charlemagne had two wives simultaneously.<sup>4</sup> Polygamy was legally practised and accepted by the Christian Church as recently as the 17th century.<sup>5</sup> Polygamy was also practised by the Church of Jesus Christ of Latter-Day Saints (Mormons) in America in the 19th Century until it was forbidden by secular law.

1 *The Jews, Their History and Culture and Religion*, 3rd edition, Ed. Louis Finkelstein, Vol. II, p. 1795.

2 *The Standard Jewish Encyclopaedia*, p. 1526.

3 Al-Talib, Nizar, *Polygamy in Islam*, p. 1.

4 Lecky, W.E.H., *History of European Morals*, Vol. II, p. 343.

5 *Encyclopaedia Britannica*, Vol. XIV, p. 950.



"In Hindustan polygamy was prevalent in Vedic and post-Vedic ages. The existence of polygamy or promiscuous marriages presupposes the low status assigned to women in the earliest ages. That a man could marry as many wives as he pleased is surely an index of the backwardness of the society."<sup>1</sup>

It appears that in the time of Manu, the practice of polygamy was not held in contempt, but was treated as a privilege reserved for the twice-born classes. And in this matter a Brahman was most fortunately placed as he could keep as many as four wives, one being from his own caste and the rest from the remaining three castes. Likewise a Kshatriya could marry three wives, one from his own caste and the rest from the remaining two castes. Similarly, a Vaishya was entitled to two wives, one belonging to the Vaishya caste and the other to the Shudra caste. A Shudra was allowed only one wife and therefore, had to lead a monogamous life.<sup>2</sup>

Thus polygamy, the relic of barbarous times, existed also in Hindu Society. Polyandry, too, existed. The five Pandava brothers had a common wife. Many of the Israelites patriarchs were polygamous and some had hundreds of wives.

Solomon, the Wise, is said to have seven hundred wives in addition to three hundred concubines. Hadrat Dawud (peace be upon him) had ninety-nine wives. Hadrat Ibrahim, Yaqub and Musa (peace be upon them) had three or four wives each. But neither the Jews nor the Christians, nor even the Vedic Hindus and Zoroastrians prescribed limits as to the number. The Germans, up to the 16th century, enjoyed an unbridled licence. King Constantine and his successors had more than one wife. The Romans and the French practised polygamy before they came into the fold of Christianity. The Christian law of monogamy was framed by Justinian, the Roman lawgiver, who was suspected of being an atheist. In

1 India, *Status of Women in Ancient India*, p. 66.

2 Manu, III, 12.

Iran, Egypt, Greece, Babylon and Austria polygamy was in vogue. The New Testament, while upholding monogamy, does not prohibit polygamy except in the case of a bishop or a deacon. Even the Christian kings practised it.<sup>1</sup>

In Islam, the practice of polygamy is allowed. It should however, be noted that Islam did not introduce the custom but rather restricted the practice already existing. There is only one verse in the Holy Qur'an which discusses polygamy :

"And if ye fear that ye will not deal fairly with the orphans, marry of the women, who seem good to you, two, or three or four, and if ye fear that ye cannot do justice (to so many) then one (only) or (the captives) that your right hands possess. Thus it is more likely that ye will not do injustice." (4 : 3)

As a commentary to the above, Maulana Syed Abul A'la Maududi writes :

"Polygamy was a current practice in Arabia even before the revelation of this verse. The Prophet (peace and blessings of Allah be upon him) had also a number of wives; and similar was the case with quite a number of his Companions. This verse was revealed after the War of Uhud. It aimed at making Muslims feel that they need not worry about the upshot of orphans due to martyrdom of many Muslims, that it was an easy solution to resort to polygamy which was permissible even from before. This verse did not indicate any new permission; it urged that a particular current practice which was permissible should be resorted to for the solution of a social problem. What was new in the verse was the restriction on the number of wives."<sup>2</sup>

This verse which is the only one on the topic clearly shows that the Holy Qur'an favours the natural course of monogamy; however to meet certain physical, family, social or political situations, it has given permission of polygamy.

1 Fida Hussain, *Wives of the Prophet*, p. 64.

2 *Marriage Commission Report X-rayed* — edited by Mr. Khurshid Ahmad.



Monogamy is the food which sustains society. Polygamy is the medicine of the disease of the society. If the West were to follow Islam in this respect today, all the destitute and helpless women there could become members of decent families, and prostitution and immorality can be effectively stamped out.

From the age of 25 to the age of 50, the Messenger of Allah (peace and blessings of Allah be upon him) lived with one wife only, Khadija (Allah be pleased with her). That way he demonstrated that Islam favoured monogamy. He married again only after Khadija (Allah be pleased with her) had died and when the situation had changed socially and politically.

In the case of having more than one wife, it is a tyranny to incline towards one wife so exclusively as to leave the other wife or wives in a state of suspension. This is declared unlawful by the Holy Qur'an in unambiguous terms :

"Do not incline towards one so exclusively as to leave the other in a state of suspension." (4 : 129)

The Holy Qur'an grants the permission of taking more than one wife under the proviso of justice. The verse which permits up to four wives also contains a clear order that if you cannot do justice, you should keep one wife only.

The great Western thinker and playwright, Bernard Shaw advised the people of Europe to adopt polygamy in order to save Europe from the inundation of adultery. Another Western writer Mr. J. E. McFarlane, in his book entitled *The Case for Polygamy*, writes :

"It is untrue that Christ advocated monogamy. Whether the question is considered socially, ethically or religiously, it can be demonstrated that polygamy is not contrary to the highest standards of civilization. The suggestion offers a practical remedy for the Western problem of the destitute and unwanted females, the alternative is

continued and increased prostitution, concubinage and distressing spinsterhood."

From this it is crystal clear that thousand of young women remain unmarried or seek refuge in churches and monasteries due to non-availability of males and they naturally adopt illegitimate ways of satisfaction.

In short, polygamy in Islam came into practice to serve the interest of the weaker sex, and it will continue to serve in this capacity whenever the situation demanded. This is the spirit of the Islamic Law of polygamy.

A word from Dr. Annie Besant would not be out of place here. She says :

"There is pretended monogamy in the West, but there is really polygamy without responsibility; the "mistress" is cast off when the man is weary of her and sinks gradually to be the "woman of the street" for the first lover has no responsibility for her future and she is a hundred times worse off than the sheltered wife and mother in the polygamous home. When we see thousands of miserable women, who crowd the streets of Western towns during the night, we must surely feel that it does not lie in Western mouths to reproach Islam for its polygamy. It is better for a woman, more respectable for a woman, to live in Islamic polygamy united to one man only, with the legitimate child in her arms surrounded with respect, than to be reduced, cast out on the streets, perhaps with an illegitimate child outside the pale of law —unsheltered and uncared for, to become a victim of any passerby, night after night, rendered incapable of motherhood, despised by all."

Dr. Billy Graham, the world famous Evangelist says :

"Christianity cannot compromise on the question of polygamy. If present-day Christianity cannot do so, it is to its own detriment. Islam has permitted polygamy as a solution to social ill and has allowed a certain degree of



latitude to human nature but only within the strictly defined framework of the law. Christian countries make a great show of monogamy, but actually they practise polygamy. No one is unaware of the past mistresses play in Western society. In this respect Islam is a fundamentally honest religion, and permits a Muslim to marry a second wife if he must strictly forbidden all clandestine amatory associations in order to safeguard the moral polity of the community."

Westermarck quotes a number of writers in his book, *Future of Marriage in Western Civilization*, who advocate the legislation of polygamy on different grounds. He says :

"Dr Cope sees no objection to voluntary polygamy or polyandry being permitted, if agreed to by all the parties. Under ordinary circumstances, he says, very few persons would be willing to make such a contract, but there are some cases of hardship which such permission would remedy. Such, for instance, would be the case where the man or woman had become the victim of a chronic disease; or, where either party should be childless, and in other contingencies which can be imagined. For the most part, he adds, the best way to deal with polygamy is to let it alone. So also, according to Mr. Southern, the preference that most people give to monogamy is no reason why the state should enforce it. So far as other forms of marriage can be practised by mutual consent, and without detrimentally affecting children, the state hasn't the ghost of a right to veto them. Dr. Norman Haire, who maintains that legalised polygamy would offer many advantages to the majority of people, argues that if the children are supported by the state, there need be no limit to the number of legal mates. Professor Dunlop thinks it may well be that certain individuals cannot attain complete satisfaction in monogamy, but may reach a highly satisfying adaptation in polygamous marriage, and that the system of the future will leave individuals free to form whatever types of matrimonial alliances are most advantageous to them . . . . In France, Dr. Le Bon has predicted that European

legislation in the future will recognize polygamy . . . . A return to polygamy, the natural relationship between the sexes, would remedy many evils : prostitution, venereal diseases, abortion, the misery of illegitimate children, the misfortune of millions of unmarried women, resulting from disproportion between the sexes, adultery, and even jealousy, since the disregarded wife would find consolation in her cognizance of not being secretly deceived by her husband . . . A radical champion of polygamy is Professor Christian Von Ehrenfels; who regards it as necessary for the preservation of the Aryan race . . . . In Persia, according to Colonel Macgregor, only two per cent have a plurality of wives. In Pakistan and India the percentage is not higher. He further admits that man's taste for variety in sex experience is more intense than the woman's and this has led to the often repeated view that he is instinctively polygamous."

Hostile critics try to make out that polygamy is an institution started by the Holy Prophet (peace and blessings of Allah be upon him). This allegation is based on ignorance and wantonness. Polygamy is an institution as old as human race itself. Prior to Islam polygamy was widely practised in all parts of the world. It is customary with the non-Muslims specially European to hurl inadvertently criticism at polygamy without considering the pros and cons of this custom. The main reason expostulated is that it is designed for the satisfaction of unrestrained lust. Nothing can be farther from the truth than this ill-founded and notorious notion, which is undoubtedly due to ignorance and sheer lack of knowledge of the circumstances under which polygamy is permitted and practised. Notwithstanding the restrictions and limitations imposed by the Divine Law, and the conditions under which a Muslim can justifiably have more than one wife, I take the liberty to explain the advantages and the convincing reasons in its justification.

I would discuss the natural aspect first. It is an established fact that all men and women are not equally gifted



by nature as regards mental capacity, physical strength and vitality. In everyday life we find heterogeneous and vastly different people. Ordinarily men and women are categorised as (i) normal and (ii) abnormal — physically, mentally and sexually. Again there are two kinds of abnormal people, i.e., excessively sexed and very meagrely sexed. It is not universally correct that men and women, who are bound together by matrimonial ties, are essentially at par and equal in every respect. In not many husbands and wives are, fortunately enough, nearly equally sexed and possess sufficiently equal physique and vitality. Thus for a man, who is by nature stouter, stronger and tougher than a woman, when endowed with abnormal vitality and sexual desire, it is not humanly possible to control himself and restrain the powerful instinct of mating. If such an abnormally sexed person were to try to do so, he would assuredly break his nerves and would go against the natural impulse, which has been generously awarded to him by nature, coupled with immense strength, abounding vitality and enormous energy. A man is a human being and not an angel, hence it is not possible for him to restrain himself to a great extent.

It is admitted that one should possess sufficient restraint and adequate self-control and should not allow lust and animal desires to overwhelm and overpower him, but at the same time he should not be expected to excruciate and torture himself in an attempt to restrain and pacify it. This would, undoubtedly, mean a perpetually recurring self-mortification for the abnormal and powerful person. Thus it would prove, naturally, a sort of punishment for him and no reasonably just person can like to inflict it upon a man so constituted and built by nature, as long as he respects the codes of morality and does not indulge in hateful acts of immorality and immodesty which are forbidden by all the religions of the world. If such a strong man is deprived of or denied the right to marry an other young woman, he would be compelled to commit adultery and lead a life of

debauchery, which is not only a great sin, as declared by the Holy Books, but also an illegal act and misdeed against all canons of morality. The detestable consequences are evident everywhere — particularly in Europe — where ever-increasing immorality is causing terrible headache for all the decency-loving and religious-minded sections of the European public.

It is an indisputable fact that in the pretended monogamous society in the West, there is, undoubtedly and in reality, polygamy being practised but without the requisite responsibilities and the rights thereof. A man keeps more than one woman but hypocritically declares that he is living faithfully with one only. He has not got the moral courage to admit and take the responsibility of the others, with whom he enjoys and maintains conjugal relations, and in spoiling whose modesty and chastity he does not entertain any shame or fear. He is heedless of the consequences and reckless in the game or in the pursuit of endless pleasures. In Europe and America a mistress is cast off frequently, when the man becomes weary and tired of the easily gotten prey. There is no other alternative for the poor and innocent creatures but to sink into "women of the streets", because their first lovers have no responsibilities whatsoever or binding for their future. They are thus, unfortunately, a hundred times worse off than a sheltered, well-fed, well-looked after wife and a happy mother in the polygamous home.

It is far better for a woman, happier for her, more respectful and more secure for a woman, in polygamy, wedded to one strong, well-to-do and God-fearing man, with the legitimate child in her arms and surrounded with respect, than to be reduced, cast out helplessly and dishonourably into the streets, with an illegitimate child, unsheltered and uncared for. Such a woman is assuredly liable to fall a prey



repeatedly to other passers-by, so many times, being deprived of honour. Many of them are rendered incapable of producing children. They are frequently victimized and are then hated and despised by the society which wilfully neglected them. Then natural result is demoralisation and degeneration — horrible increase in the birth-rate of illegitimate children and abortions. It is no secret that corruption and immorality are adopting tremendous proportions in countries where the number of women is comparatively larger.

There is another important physical factor as regards a woman which cannot be ignored. Nature has assigned a woman the sacred task of producing children. She is frail, slender and rightly named as "weaker" and "fair sex." A woman takes pride in motherhood. Every time a woman gives a birth to a child she divides herself. After dividing herself again and again, her fires are slackened. But a man's fires burn on. An abnormal man cannot lead a happy life with a woman who becomes weak after successive births. Whereas man remains still youthful and full of vigour and vitality. If he does not marry an other young woman, he would tread the path of immorality and sin, as it is not conceivable that he can necessarily succeed in controlling himself.

Now I take another aspect of the question. Marriage is not only the union of bodies but also that of the souls. Along with the satisfaction of passions and physical desires, the happiness of the couple is of vital importance. To achieve full happiness and contentment, it is a natural desire of husband and wife to have children i.e., their true copies and successors. It is a well-known saying that we live in our children. No couple can be happy until and unless they get a child, which is the coveted and cherished fruit of celestial love and natural instincts. If a woman ultimately proves to be barren and sterile, the unhappy man should not be penalized by denying him the right of marrying another woman.

In cases where the man is a big landlord, wealthy businessman or industrialist, but his wife is barren, to compel him not to have another better-half is tantamount to tormenting an unfortunate and aggrieved person. It is really deplorable to deny a person his just right to enhance his happiness by leaving his legal heir to the hard-earned wealth. A barren wife cannot be passionately loved—rather husband begins to hate and despise her. The souls are thus torn asunder and happiness vanishes.

Likewise when viewed from the political point of view, it proved very advantageous. A Muslim ruler succeeded in uniting different states, clans or groups by contracting matrimonials with their women folk. In this diplomatic way they eradicated from the minds of rival and factious groups all the detestable prejudices and animosities with which they had been imbibed. It led to a no inconsiderable success of unifying the different tribes and communities.

After the bloody, ruinous and devastating wars, when thousands of young men are killed and disabled, and the equal number of women are left as widows, the question of supporting these lonely women and millions of helpless orphans faces the nation. It becomes all the more imperative to devise means of saving them from the clutches of starvation and misery. It is tremendously difficult for an already impoverished and wrecked government to bear the neck-breaking burden of supporting these wretched millions.

Only well-to-do and tolerably rich and patriotic men can come to the rescue and share the responsibilities of affording them help. Under such circumstances if every wealthy and healthy man is allowed to marry a young widow, she would get not only reasonable financial aid but also would be saved from degeneration and embarking upon immorality — in other words she should not be compelled to become a prostitute. Here it can be said that she can earn



her own livelihood by adopting some convenient profession or getting domestic employment somewhere. But she cannot be expected to go against the laws of nature and end her passionate instincts. After all woman is a human being and not an angel.

The numerous facts and abundant figures point out and clearly indicate the limited utility of monogamy when compared with the benefits of polygamy. In Europe the falling birth rate, the large increase of divorce and the innumerable cases of abortion, the endless instances of immoral deeds, prove abundantly that the principles of Islam can only save that society from the ignominious and disastrous end. All these social evils and immoral doings can be terminated if polygamy is encouraged in the West as well as in the East. The rich people can conveniently render help to reform and extricate the poor from the quagmire of poverty, ignorance and misery by coming into closer contact through matrimonials. It is, thus not wise to blindly criticise a system whose utility and usefulness has already been proved through practical experience all the times.

\*\*\*\*\*

## CHAPTER 15

### NIKAH AL-MUT'A (TEMPORARY MARRIAGE)

Mut'a is the Arabic word which literally means 'enjoyment' but technically it means a marriage contracted for a fixed period in return for a recompense or *ajr*. Mut'a is therefore a temporary marriage which is contracted for a limited period, say a year, a month or some days with some dower specified.

According to the recent research mut'a was in vogue among the Arabs in the pre-Islamic days. According to Ammianus Marcellinus, its origin may be traced back to the fourth century A.D.<sup>1</sup> The Arabs used to contract a temporary marriage called mut'a to which there is a reference in *Fath al-Qadir*:

"When a man came to a village and had no acquaintance there (to take care of his house), he would marry a woman for as long as he thought he would stay, so that she would be his partner in bed and take care of his house."<sup>2</sup>

As reported by Tirmidhi and others it was in vogue in the early days of Islam especially when a man came to a

1 *Shorter Encyclopaedia of Islam*, London 1961.

2 Ibn Humam, Kamaluddin, *Fath al-Qadir*, Vol. III, p. 151.



strange village he would marry a woman for a period of his stay so that she might look after him and his property. As such it was in use while a man was on his journey and later it seems to have been adopted at home.

It cannot be denied that *zina* or fornications were common in the Days of Ignorance (*Jahiliyya*) and no wonder, if such custom as *mut'a* was already there which could not have been eradicated completely at the commencement of Islam as Islam had not yet gained in strength.

Such temporary marriages are held legal amongst the *Shi'ahs*. There has been a great controversy as to its reference in the Holy Qur'an. While the Orthodox view maintains that there can be no reference to such a temporary marriage of pleasure in the Holy Qur'an which stands for moral excellence and deals only with *nikah* or regular marriage, the *Shi'ahs* contend that there is a reference to this form of marriage *i.e.*, *mut'a* in the following verse of the Holy Qur'an which is as under:

"And all married women (are forbidden unto you save those (captives) whom your right hands possess. It is a decree of Allah for you. Lawful unto you are all beyond those mentioned, so that you seek them with your wealth in honest wedlock, not debauchery. And those of whom you seek content (by marrying them), given unto them their portions as a duty. And there is no sin for you in what you do by mutual agreement after the duty (hath been done). Lo! Allah is ever Knower, Wise.)." (4: 24)

The *Shi'ahs* also establish the legality of *mut'a* upon the following traditions:

1. 'Abdullah (b. Mas'ud) reported: We were on an expedition with Allah's Messenger (peace and blessings of Allah be upon him) and we had no women with us. We said: Should we not have ourselves castrated? He (the Holy Prophet)

forbade us to do so. He then granted us permission that we should contract temporary marriage for a stipulated period giving her a garment, and 'Abdullah then recited this verse: "Those who believe do not make unlawful the good things which Allah has made lawful for you, and do not transgress. Allah does not like transgressors" (5 : 81). (*Muslim*)

2. Jabir bin 'Abdullah and Salama b. al-Akwa' said: There came to us the proclaimer of Allah's Messenger (peace and blessings of Allah be upon him) and said: Allah's Messenger (peace and blessings of Allah be upon him) has granted you permission to benefit yourselves *i.e.*, to contract temporary marriage with women. (*Muslim*)

3. Ibn Juraij reported: 'Ata reported that Jabir bin 'Abdullah came to perform 'Umra, and we came to his abode, and the people asked him about different things, and then they made a mention of temporary marriage, whereupon he said: Yes, we had been benefiting ourselves by this temporary marriage during the lifetime of the Holy Prophet (peace and blessings of Allah be upon him) and during the time of Abu Bakr and 'Umar (Allah be pleased with them). (*Muslim*)

According to the Imamiya Code of Jurisprudence, the following are the conditions of *Mut'a* or Temporary Marriages:

1. *Mut'a* is an irrevocable contract which, like any other contract, comes into existence through *Ijab* (Proposal) and *Qabul* (Acceptance of Proposal)
2. The woman must be chaste (*'afifa*), and due inquiries should be made into her conduct, as it is abominable to enter into contract with a woman addicted to fornication, nor is it lawful to make such a contract with a virgin who has no father.
3. Temporary marriage can only be contracted with a Muslim woman. According to Ibn Babuya and



strange village he would marry a woman for a period of his stay so that she might look after him and his property. As such it was in use while a man was on his journey and later it seems to have been adopted at home.

It cannot be denied that *zina* or fornications were common in the Days of Ignorance (*Jahiliyya*) and no wonder, if such custom as *mut'a* was already there which could not have been eradicated completely at the commencement of Islam as Islam had not yet gained in strength.

Such temporary marriages are held legal amongst the *Shi'ahs*. There has been a great controversy as to its reference in the Holy Qur'an. While the Orthodox view maintains that there can be no reference to such a temporary marriage of pleasure in the Holy Qur'an which stands for moral excellence and deals only with *nikah* or regular marriage, the *Shi'ahs* contend that there is a reference to this form of marriage *i.e.*, *mut'a* in the following verse of the Holy Qur'an which is as under:

"And all married women (are forbidden unto you save those (captives) whom your right hands possess. It is a decree of Allah for you. Lawful unto you are all beyond those mentioned, so that you seek them with your wealth in honest wedlock, not debauchery. And those of whom you seek content (by marrying them), given unto them their portions as a duty. And there is no sin for you in what you do by mutual agreement after the duty (hath been done). Lo! Allah is ever Knower, Wise.)." (4:24)

The *Shi'ahs* also establish the legality of *mut'a* upon the following traditions:

1. 'Abdullah (b. Mas'ud) reported: We were on an expedition with Allah's Messenger (peace and blessings of Allah be upon him) and we had no women with us. We said: Should we not have ourselves castrated? He (the Holy Prophet)

forbade us to do so. He then granted us permission that we should contract temporary marriage for a stipulated period giving her a garment, and 'Abdullah then recited this verse: "Those who believe do not make unlawful the good things which Allah has made lawful for you, and do not transgress. Allah does not like transgressors" (5:81). (*Muslim*)

2. Jabir bin 'Abdullah and Salama b. al-Akwa' said: There came to us the proclaimer of Allah's Messenger (peace and blessings of Allah be upon him) and said: Allah's Messenger (peace and blessings of Allah be upon him) has granted you permission to benefit yourselves *i.e.*, to contract temporary marriage with women. (*Muslim*)

3. Ibn Juraij reported: 'Ata reported that Jabir bin 'Abdullah came to perform 'Umra, and we came to his abode, and the people asked him about different things, and then they made a mention of temporary marriage, whereupon he said: Yes, we had been benefiting ourselves by this temporary marriage during the lifetime of the Holy Prophet (peace and blessings of Allah be upon him) and during the time of Abu Bakr and 'Umar (Allah be pleased with them). (*Muslim*)

According to the Imamiya Code of Jurisprudence, the following are the conditions of *Mut'a* or Temporary Marriages:

1. *Mut'a* is an irrevocable contract which, like any other contract, comes into existence through *Ijab* (Proposal) and *Qabul* (Acceptance of Proposal)
2. The woman must be chaste (*'afifa*), and due inquiries should be made into her conduct, as it is abominable to enter into contract with a woman addicted to fornication, nor is it lawful to make such a contract with a virgin who has no father.
3. Temporary marriage can only be contracted with a Muslim woman. According to Ibn Babuya and



al-Mufid, mut'a with an unbeliever is forbidden, even with a woman of the People of the Book (*Kitabiya*). According to most of the Imams including Tusi, however, mut'a with a Christian or Jewish women is permitted but undesirable (*makruh*) with a *majusiya*.

4. Mut'a with a slave girl is only admitted with the consent of her master. Usually the woman contracts the marriage without a guardian (*wali*); only a virgin, according to some, requires her father's consent.
5. Some dower (*mahr*) must be specified, and if there is a failure in this respect, the contract is void. This dower may be a handful of corn, a dirham or such like.
6. There must be a fixed period (*ajal*), but its extent is left entirely to the parties: it may be a year, a month or a day, only some limit must be distinctly specified, so as to guard the period from any extension or diminution.
7. The mut'a ends on the expiry of the period agreed upon. It cannot be prolonged by arrangement between the two parties; a new temporary marriage with a new *mahr* must rather be contracted at the end of the period.
8. Mut'a marriages do not admit of divorce or repudiation, but the parties become absolutely separated on the expiry of the period.
9. There is no obligation on the man to provide food and home for the woman. The two partners cannot inherit from one another; but according to some, inheritance must be provided for in the contract.
10. The practice of '*azl* (extrahere ante emissionem seminis) is lawful, but if, notwithstanding this the

woman becomes pregnant, the child is of the temporary husband; but if he should deny the child, the denial is sustained by the law.

Briefly the following are the six terms and conditions of Mut'a:

1. *al-Ajr* or recompense.
2. *al-Ajal* or fixed period.
3. *al-Aqd* or contract comprising offer and acceptance.
4. *al-Iftiraq* or separation on the expiry of fixed period.
5. '*Idda* or waiting period imposed upon the woman before she remarries, and
6. *Adm al-Mirath* or non-inheritance between the parties.

**Mut'a and the Holy Qur'an:** The Orthodox explanation of the above quoted statement of the Qur'anic verse is that it refers to *nikah* or regular marriage. It is held by the well known Commentators of the Holy Qur'an that the verse has come to specify the *ajr* or recompense which becomes payable in full when the wife in a regular marriage is gone in. 'But give them their recompense i.e., the dower for what you have enjoyed of them' are the actual words and by enjoyment is meant the sexual intercourse after marriage that makes the recompense or dower payable in full while only the half of it is to be paid, if the marriage is dissolved before such intercourse. The purpose of the verse is, therefore, to clarify the obligation of the husband in case the marriage is consummated by sexual intercourse.

Further the Commentators stress the point that in its context the verse is definitely a reference to regular marriage. After defining the prohibited degrees, the verse proceeds to say that women other than those specified may be sought in



marriage, but even so, not from motives of lust but in order to promote chastity between the sexes. Marriage in the Qur'anic text is described by such words as suggest a fortress (*hishn*)—fortress of chastity that is to be found only in a regular marriage as it fixes the descent, restrains from debauchery, promotes mutual help between the husband and wife in earning their living and decides the well-being of the future generations. All these are absent in mut'a.

Speaking of mut'a Ibn Taymiyya says that there is nothing in the Qur'an to indicate its permissibility. The Qur'an after defining the prohibited degrees proceeds to say: "Except for these all other (women) are lawful to you provided you seek them in marriage by your paying the dower, desiring chastity and not lust. But give them their *ajr* or recompense (dower) for what you have enjoyed of them in keeping with your promise. But there shall be no blame on you if you mutually agree to alter the promise; and Allah is All-Knowing, All-Wise. And whoso is not able to afford to marry free, believing women, let them marry from the believing maids whom your right hands possess. Allah knoweth best (concerning) your faith." (4 : 24, 25)

The words 'But give them their recompense for what you have enjoyed of them' are to specify the obligation that the recompense or dower becomes payable in full when the woman taken in marriage has been enjoyed or gone in, for, otherwise she is entitled to get only the half of it (dower). The verse 4:24 is to point out this distinction. It is proved by the following Qur'anic verse:

"And how can you take it (dower) away after one of you has gone in unto the other, and they have taken a strong pledge from you." (4: 21)

The verse 4:24 therefore relates to regular marriage, particularly so because it subsequently speaks of marriage with the

capitive women which means that what has preceded it pertains to marriage with free women.

Ibn 'Abbas and others used to read the verse 4:24 by adding to it the words 'for a definite period' to show that the verse related to mut'a but no such addition can be taken into consideration. Mut'a is forbidden but there are varying statements as to the date when it was forbidden. The right view is to accept that it was forbidden on the Day of the Conquest of Makkah and thereafter was never allowed.

The Sunni follow not only Hadrat Umar (Allah be pleased with him) but all the Rightly-guided Caliphs including Hadrat 'Ali (Allah be pleased with them) but the *Shi'ahs* who follow Hadrat 'Ali (Allah be pleased with him) oppose him in what he has reported from the Messenger of Allah (peace and blessings of Allah be upon him). Further Allah has made lawful to us our wives and those whom our right hands possess (namely captive women) and the women taken into mut'a is not a wife. Had she been a wife she would have inherited from her husband, observed the waiting period on the death of her husband, and divorce would have been applicable to her, but as they do not apply to her it means that she is not a wife. The son born of mut'a is therefore the son born of fornication and mut'a after it is definitely forbidden is nothing but fornication.<sup>1</sup>

According to al-Khazin mut'a was prevalent in the early period of Islam and the Messenger of Allah (peace and blessings of Allah be upon him) forbade it as it is reported by Sabra bin Ma'bad (Allah be pleased with him) that he was with the Messenger of Allah (peace and blessings of Allah be upon him) who said: "O ye people! I had allowed you mut'a with women but Allah has forbidden it up to the Day of Resurrection; whoever of you has married a woman for a period, shall give her what he has promised

<sup>1</sup> Ibn Taymiyya, *Minhaj al-Sunnat al-Nabaveyya*, Vol. II, pp. 155-157.



and claim nothing of it back." The Companions of the Messenger of Allah (peace and blessings of Allah be upon him), their successors, and the generality of Muslim Scholars therefore, hold mut'a as unlawful and the Qur'anic verse as abrogated but they differ as to whether it was abrogated by the *Sunna* or traditions of the Messenger of Allah (peace and blessings of Allah be upon him) or by the text of the Qur'an. Those who believe that the *Sunna* can abrogate the text of the Qur'an, refer to the above tradition of the Messenger of Allah (peace and blessings of Allah be upon him) as reported by Sabra and as reported by 'Ali (Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allah be upon him) forbade mut'a on the Day of Khaibar, while according to Imam Shafi'i who believes that the *Sunna* cannot abrogate the text of the Holy Qur'an, it was abrogated by the other Qur'anic verse:

"And who abstain from sex except with those joined to them in the marriage bond, or (the captives) whom their right hands possess, for (in their case) they are free from blame." (23 : 5, 6)

Al-Khazin, then, says that the woman taken in mut'a is neither a wife nor a captive and according to Ibn 'Abbas mut'a is neither a *nikah* (regular marriage) nor fornication and parties to such a contract do not inherit from each other. And when it was disclosed to him that his verdicts are ridiculed he said that he allowed mut'a for those only who were confronted with necessity. It is also reported of him that he withdrew his verdicts and, according to 'Ata al-Khurasani, was convinced that the Qur'anic verse which he considered as related to mut'a was abrogated by the other verse: 'O' Prophet (announce to thy following): When ye have to divorce women, divorce them while they are in a free state *i.e.*, free of menses or are not pregnant.' (65 : 1)

As reported by 'Abdullah bin 'Umar (Allah be pleased with him) it was Caliph Umar (Allah be pleased with him)

who announced from the pulpit: What has happened to the people that they use mut'a while the Messenger of Allah (peace and blessings of Allah be upon him) has forbidden it and I will stone the man to death who has contracted mut'a and also added that mut'a was annulled by the Qur'anic verses relating to *nikah* (regular marriage), *talaq* (divorce), *Idda* (waiting period) and *mirath* (inheritance).

Referring to the Qur'anic verse 4:24 Al-Alusi says that it cannot be denied that mut'a was permitted and then forbidden. Qazi Ayaz has discussed it at length and what appeals to reason is that its permissibility and prohibition both occurred twice. It was permissible before the Day of Khaibar and then forbidden on the Day of Khaibar, again it was permitted on the Day of Conquest of Makkah which is also called the Day of Autas and forbidden after three days up to the Day of Resurrection and the fact cannot be denied as this is proved by *Sahih Muslim* in a convincing manner. Further the Holy Prophet (peace and blessings of Allah be upon him) did not permit mut'a when people were in their houses as it was to meet the necessity when they were on expeditions and it was there that it was forbidden for ever.

The woman taken in mut'a is neither a wife nor a captive, nor are the rights and obligations that arise from marriage applicable to the contract of mut'a and it is reported by Abu Nasir in his *Sahih* that Jafer al-Sadiq, the sixth Imam of *Shi'ahs* was asked if the woman taken in mut'a was one of the four wives. The reply was that she is neither one of the four nor of the seventy. This is the clear proof of the fact that such woman is not a wife. There is no difference of opinion, among the Scholars of Islam, about the unlawfulness of mut'a except that the *Shi'ahs* hold it permissible.

Commenting upon the Qur'anic verse 4:24 Ibn Kathir says that there is a controversy about its meaning. Mut'a was permissible in the early days of Islam and thereafter



prohibited. According to Shafi'i and a group of Muslim Scholars it was permitted twice and also prohibited twice, while others say that it happened so more than twice. Ibn 'Abbas and others are of the opinion that it was permitted to satisfy the pressing needs of the people and he along with Ubay bin Ka'b, Saeed bin Jubair and al-Suddi used to read the Qur'anic verse to mean that mut'a was a marriage for a definite period. Mujahid said that Qur'anic verse is revealed in connection with mut'a, while the generality of learned men in Islam oppose this view. The best of all is what is proved by *Sahihain* (*Sahih Bukhari* and *Sahih Muslim*) wherein Hadrat 'Ali (Allah be pleased with him) is reported to have said that mut'a was forbidden by the Holy Prophet (peace and blessings of Allah be upon him) on the Day of Khaibar and as reported by *Muslim* Sabra bin Ma'bad said that he was on expedition with the Holy Prophet (peace and blessings of Allah be upon him) on the Day of the Conquest of Makkah when the Messenger of Allah (peace and blessings of Allah be upon him) said: 'O ye people! I had permitted you mut'a with women but Allah has forbidden it up to the Day of Resurrection; whoever of you has married a woman for a period shall give her what he promised and claim nothing of it back.'<sup>1</sup> Al-Baidavi also says that mut'a was permitted for three days when Makkah was conquered and thereafter forbidden and Ibn 'Abbas is reported to have withdrawn his verdicts.<sup>2</sup>

Mut'a as described by the learned in Islam, is nothing but hiring woman to satisfy sexual appetite or in its modern practice 'legalized prostitution' as pointed out in the *Shorter Encyclopaedia of Islam*. It has been conclusively proved by the Commentators that the above cited verses in its context refers to *nikah* or regular marriage, and even if it is considered to have a reference to mut'a, it is abrogated by other Qur'anic verses.

1 Ibn Kathir, *Tafsir al-Qur'an* Vol. I, p. 474.

2 Al-Baidavi, *Tafsir*, Vol. I, p. 115.

**Mut'a and the Ahadith:** After having discussed fully the Qur'anic verses and their authentic exposition with reference to mut'a, now we would study the *Ahadith* having a bearing on the subject. It is of significance, at this stage, to note the view of Shaukani who has discussed mut'a in the light of the traditions of the Messenger of Allah (peace and blessings of Allah be upon him).

To trace the origin of Mut'a Shaukani refers to the statement of Ibn 'Abbas as reported by Tirmidhi according to which mut'a was in vogue in the early days of Islam and a man, who went to strange village where he had no acquaintance, would marry a woman for as long a period as he thought he might stay so that she would look after him and his property. But when it was revealed: "And who abstain from sex except with those joined to them in marriage bond or (the captives) whom their right hands possess, for (in their case) they are free from blame," (23 : 5, 6), Ibn 'Abbas said: "All other ways except these two are unlawful." And as reported by Baihaqi even Jafer bin Muhammad upon being asked about mut'a said that it was exactly *zina* or fornication. As already mentioned Jafer bin Muhammad is the same Jafer al-Sadiq, the sixth Imam of the *Shi'ahs*.

In reply to what has been reported by Jabir that he and others used to contract mut'a in return for a handful of flour or of dates in the days of the Messenger of Allah (peace and blessings of Allah be upon him) and of Hadrat Abu Bakr (Allah be pleased with him) and during the early period of the reign of Hadrat 'Umar (Allah be pleased with him) till he prevented them from it in the case of 'Amr bin Huraith, Shaukani says that it is impossible that the Companions of the Messenger of Allah (peace and blessings of Allah be upon him) should know about the prohibition of mut'a by the Holy Prophet (peace and blessings of Allah be upon him) and still continue to practise it. May be, they practised it in the days of the Holy Prophet (peace and



blessings of Allah be upon him) and continued it as the prohibitory order could not reach them till Hadrat 'Umar (Allah be pleased with him) declared it openly and perhaps it is for this reason that Hadrat 'Umar (Allah be pleased with him) had to declare it openly as forbidden.

In *Sahih al-Bukhari* we find four *ahadith* or traditions of the Holy Prophet (peace and blessings of Allah be upon him) under the heading "The Prophet forbade the marriage of mut'a lastly." These are:

1. Narrated 'Ali (Allah be pleased with him): I said to Ibn 'Abbas, "During the battle of Khaibar the Messenger of Allah (peace and blessings of Allah be upon him) forbade (Nikah) Al-Mut'a and the eating of donkey's meat.
2. Narrated Abu Jamra: I heard Ibn 'Abbas (giving a verdict) when he was asked about the mut'a with the women, and he permitted it (Nikah-al-Mut'a). On that a freed slave of his said to him, "That is only when it is very badly needed and women are scarce." On that, Ibn 'Abbas said, "Yes."
3. Narrated Jabir bin 'Abdullah and Salama bin Al-Akwa': While we were in an army, Allah's Messenger (peace and blessings of Allah be upon him) came to us and said, "You have been allowed to do the mut'a (marriage), so do it."
4. Salama bin Al-Akwa' reported that his father related to him that the Messenger of Allah (peace and blessings of Allah be upon him) said: "If a man and a woman agree (to marry temporarily), their marriage should last for three nights, and if they like to continue, they can do so; and if they want to separate, they can do so." I do not know whether that was only for us or for all the people

in general. Abu 'Abdullah (Al-Bukhari) said: 'Ali made it clear that the Messenger of Allah (peace and blessings of Allah be upon him) said, "The mut'a marriage has been cancelled (made unlawful)."

Here are the sayings of the Holy Prophet (peace and blessings of Allah be upon him) as given in *Sahih Muslim* under the heading "Marriage of mut'a and how it was allowed and then forbidden, and again allowed and thereafter forbidden up to the Day of Resurrection":

1. Jabir bin 'Abdullah reported: We contracted temporary marriage giving a handful of dates or flour as a dower during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him) and during the time of Abu Bakr (Allah be pleased with him) until 'Umar (Allah be pleased with him) forbade it in the case of 'Amr bin Huraith.<sup>1</sup>
2. Abu Nadra reported: While I was in the company of Jabir bin 'Abdullah, a person came to him and said that Ibn 'Abbas and Ibn Zubair differed on the two types of Mut'as (Tamattu' of Hajj and Tamattu' with women), whereupon Jabir said: We used to do these two during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him). 'Umar (Allah be pleased with him) then forbade us to do them, and so we did not revert to them.

<sup>1</sup> 'Amr bin Huraith came to al-Kufa and he contracted temporary marriage with his freed slave-girl and she became pregnant. 'Amr came to Hadrat 'Umar (Allah be pleased with him) with that pregnant girl and he made a confession of what he had done, and it was at this juncture that Hadrat 'Umar (Allah be pleased with him) proclaimed its prohibition very forcefully and gave it wide publicity. The Messenger of Allah (peace and blessings of Allah be upon him) had also forbidden it, but it had not been given wide publicity as the practice itself was rare and resorted to only in rare circumstances.



blessings of Allah be upon him) and continued it as the prohibitory order could not reach them till Hadrat 'Umar (Allah be pleased with him) declared it openly and perhaps it is for this reason that Hadrat 'Umar (Allah be pleased with him) had to declare it openly as forbidden.

In *Sahih al-Bukhari* we find four *ahadith* or traditions of the Holy Prophet (peace and blessings of Allah be upon him) under the heading "The Prophet forbade the marriage of mut'a lastly." These are:

1. Narrated 'Ali (Allah be pleased with him): I said to Ibn 'Abbas, "During the battle of Khaibar the Messenger of Allah (peace and blessings of Allah be upon him) forbade (Nikah) Al-Mut'a and the eating of donkey's meat.
2. Narrated Abu Jamra: I heard Ibn 'Abbas (giving a verdict) when he was asked about the mut'a with the women, and he permitted it (Nikah-al-Mut'a). On that a freed slave of his said to him, "That is only when it is very badly needed and women are scarce." On that, Ibn 'Abbas said, "Yes."
3. Narrated Jabir bin 'Abdullah and Salama bin Al-Akwa': While we were in an army, Allah's Messenger (peace and blessings of Allah be upon him) came to us and said, "You have been allowed to do the mut'a (marriage), so do it."
4. Salama bin Al-Akwa' reported that his father related to him that the Messenger of Allah (peace and blessings of Allah be upon him) said: "If a man and a woman agree (to marry temporarily), their marriage should last for three nights, and if they like to continue, they can do so; and if they want to separate, they can do so." I do not know whether that was only for us or for all the people

in general. Abu 'Abdullah (Al-Bukhari) said: 'Ali made it clear that the Messenger of Allah (peace and blessings of Allah be upon him) said, "The mut'a marriage has been cancelled (made unlawful)."

Here are the sayings of the Holy Prophet (peace and blessings of Allah be upon him) as given in *Sahih Muslim* under the heading "Marriage of mut'a and how it was allowed and then forbidden, and again allowed and thereafter forbidden up to the Day of Resurrection":

1. Jabir bin 'Abdullah reported: We contracted temporary marriage giving a handful of dates or flour as a dower during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him) and during the time of Abu Bakr (Allah be pleased with him) until 'Umar (Allah be pleased with him) forbade it in the case of 'Amr bin Huraith.<sup>1</sup>
  2. Abu Nadra reported: While I was in the company of Jabir bin 'Abdullah, a person came to him and said that Ibn 'Abbas and Ibn Zubair differed on the two types of Mut'as (Tamattu' of Hajj and Tamattu' with women), whereupon Jabir said: We used to do these two during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him). 'Umar (Allah be pleased with him) then forbade us to do them, and so we did not revert to them.
- <sup>1</sup> 'Amr bin Huraith came to al-Kufa and he contracted temporary marriage with his freed slave-girl and she became pregnant. 'Amr came to Hadrat 'Umar (Allah be pleased with him) with that pregnant girl and he made a confession of what he had done, and it was at this juncture that Hadrat 'Umar (Allah be pleased with him) proclaimed its prohibition very forcefully and gave it wide publicity. The Messenger of Allah (peace and blessings of Allah be upon him) had also forbidden it, but it had not been given wide publicity as the practice itself was rare and resorted to only in rare circumstances.



3. Iyas bin Salama reported on the authority of his father that Allah's Messenger (peace and blessings of Allah be upon him) gave sanction for contracting temporary marriage for three nights in the year of Autas and then forbade it.
4. Sabra bin Ma'bad reported that Allah's Messenger (peace and blessings of Allah be upon him) permitted his companions to contract temporary marriage with women in the Year of Victory. So I and a friend of mine from Banu Sulaim went out, until we found a young woman of Banu 'Amir who was like a young she-camel having a long neck. We made proposal to her for contracting temporary marriage with us, and presented to her our cloaks (as dower). She began to look and found me more handsome than my friend, but found the cloak of my friend more beautiful than my cloak. She thought in her mind for a while, but then preferred me to my friend. So I remained with her for three (nights); and then Allah's Messenger (peace and blessings of Allah be upon him) commanded us to part with them (such women).
5. 'Urwa bin Zubair reported that 'Abdullah bin Zubair (Allah be pleased with him) stood up (and delivered an address) in Makkah saying: Allah has made blind the hearts of some people as He has deprived them of eyesight that they give religious verdict in favour of temporary marriage, while he was alluding to a person (Ibn 'Abbas). Ibn 'Abbas called him and said: You are an uncouth person, devoid of sense. By my life, mut'a was practised during the lifetime of the Leader of the pious (he meant Allah's Messenger, peace and blessings of Allah be upon him), and Ibn Zubair said to him: Just do it yourselves, and by Allah, if you do

- that I will stone you with your stones. Ibn Shihab said: Khalid bin Muhajir bin Saifullah informed me: While I was sitting in the company of a person, a person came to him and he asked for a religious verdict about mut'a and he permitted him to do it. Ibn Abu 'Amrah al-Ansari (Allah be pleased with him) said to him: Be gentle. It was permitted in the early days of Islam, (for one) who was driven to it under the stress of necessity just as (the eating of) carrion and the blood and flesh of swine, and then Allah intensified (the commands of) His religion and prohibited it (altogether). Ibn Shihab reported: Rabi bin Sabra told me that his father (Sabra) said: I contracted temporary marriage with a woman of Banu 'Amir for two cloaks during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him); then he (the Holy Prophet) forbade us to do mut'a. Ibn Shihab said: I heard Rabi bin Sabra narrating it to 'Umar bin 'Abd al-'Aziz and I was sitting there.
6. 'Ali bin Abu Talib (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) prohibited on the Day of Khaibar the contracting of temporary marriage with women and the eating of the flesh of domestic asses.
  7. 'Ali (Allah be pleased with him) heard that Ibn 'Abbas (Allah be pleased with him) gave some relaxation in connection with the contracting of temporary marriage, whereupon he said: Don't be hasty (in your religious verdict), Ibn 'Abbas, for Allah's Messenger (peace and blessings of Allah be upon him) on the Day of Khaibar prohibited for ever the doing of it and eating of the flesh of domestic asses.



8. 'Ali (Allah be pleased with him) said to Ibn 'Abbas (Allah be pleased with him) that Allah's Messenger (peace and blessings of Allah be upon him) on the Day of Khaibar forbade for ever the contracting of temporary marriage and the eating of the flesh of domestic asses.

Now when the *ahadith* relating to mut'a have come before us, we propose to discuss this issue in some detail as some confusion may be caused without understanding its proper background. Mut'a, which is a marriage contracted for a fixed period on payment of a reward to the woman is not a practice introduced by Islam. It was one of the old customs of Arabia and, like all other customs of the Days of Ignorance, it had to be uprooted gradually. It was practised by some Muslims in the early days of Islam, but it was forbidden by the Holy Prophet (peace and blessings of Allah be upon him) on the eve of the Conquest of Khaibar. Some relaxation had, however, to be made in the year of Autas and in the Victory of Makkah under the stress of dire necessity. The Arabs had been accustomed to this mal-practice since time immemorial and it was not possible to uproot it altogether with single stroke. In these expeditions the Muslims were far away from their wives, and at the same time all of them had not, by this time, learnt the habit of complete sex control. They were thus hard pressed and the Messenger of Allah (peace and blessings of Allah be upon him) had to grant them some concession in the spirit in which a person who is driven to extreme hunger is allowed to eat carrion, blood, and the flesh of the swine as we find in hadith 5 above. It means that slowly and steadily it was hammered into the minds of the Muslims that mut'a is a very obnoxious practice which is not liked by Islam and which a good Muslim should avoid to the possible extent. But as it could not be exterminated root and branch at once, temporary relaxations were made on two occasions. Then on the occasion of the Campaign of Makkah which is also the

campaign of Autas it was declared forbidden for all times to come.

Now we refer to the comments upon *Sahih Muslim* by Al-Nawawi who says that Qazi Ayaz has dealt at length with the contradictory statements as to the validity of mut'a and the date on which it was forbidden. According to other Scholars mut'a was permissible in the early days of Islam and then forbidden which is proved by the sound traditions and the unlawfulness of mut'a is established by *ijma'* or consensus except that a group of innovators depend upon the traditions which are baseless and rely upon the reading of the Qur'anic verses to which Ibn Mas'ud has added his own words which cannot be allowed. As a matter of fact, there can be no difference of opinion as to the date and place at which mut'a was permitted and then forbidden. According to *Muslim* mut'a was permitted and then forbidden on the Day of Autas and on the Day of the Conquest of Makkah. This is but one and the same event as Autas is a valley in Taif near Makkah. Before this event, mut'a was forbidden at Khaibar as is narrated by Hadrat 'Ali (Allah be pleased with him). One has to bear in mind that mut'a was permissible in the early days of Islam and then forbidden by the Holy Prophet (peace and blessings of Allah be upon him) at Khaibar, again it was permitted for three days on the occasion of the campaign of Makkah which is also the Campaign of Autas and thereafter forbidden for ever. The permission and prohibition of mut'a thus, occurred twice and all the other statements are incorrect.

We find some indication in the *ahadith* that it was forbidden completely by Hadrat 'Umar (Allah be pleased with him) which is not correct. It was in fact forbidden by the Holy Prophet (peace and blessings of Allah be upon him) himself during his lifetime, but as there were no elaborate means of communication, its prohibition could not be conveyed to all the Muslims who had been living far away. Thus there was the necessity of its declaration again and



again on different occasions. Hadrat 'Umar (Allah be pleased with him) made a vigorous effort to convey it to every quarter, and imposed punishment of stoning upon those who committed this offence as is done in the case of fornication.

In the face of the event that mut'a was definitely forbidden by the Holy Prophet (peace and blessings of Allah be upon him) there can be no charge against the Caliph 'Umar (Allah be pleased with him) that he was first to forbid it. What Hadrat 'Umar (Allah be pleased with him) did was in obedience to the Command of the Holy Prophet (peace and blessings of Allah be upon him) who did not speak of (his own) desire unless it was a revelation that was revealed (53 : 3, 4). And about whom it is said in the Holy Qur'an: "Obey Allah and the Messenger" (4 : 59); "whatever the Messenger gives you, take it, and whatever he forbids, abstain from it" (59 : 7). Thus the statement of Jabir and other that they acted upon Mut'a in the days of the Holy Prophet (peace and blessings of Allah be upon him) and of Abu Bakr (Allah be pleased with him) and also in the period of 'Umar's reign until it was forbidden by Hadrat 'Umar (Allah be pleased with him), has no value and cannot provide a basis for argument. It may be that those who practised mut'a even after the death of the Holy Prophet (peace and blessings of Allah be upon him) were unaware of the Prophet's interdiction, for no believer can go against his orders and Hadrat 'Umar (Allah be pleased with him) could not declare the unlawfulness of mut'a earlier as no such case came to him before. If 'Umar's declaration was not right, why was it not opposed by the dignified persons like 'Ali and other Companions including Jabir (Allah be pleased with them)? They abstained from mut'a which is the conclusive proof of the fact that they were convinced of its unlawfulness. The invalidity of mut'a is, thus, established by *ijma'* or consensus, while its prohibition is proved by the most reliable traditions of the Holy Prophet (peace and blessings of Allah be upon

him). Its viciousness and invalidity are, therefore, doubly confirmed.

These *ahadith* relating to mut'a also reveal the role of the Holy Prophet (peace and blessings of Allah be upon him) as the expounder of the Divine Law. It is he who alone is authorised to declare any act illegal, or to grant relaxation in some circumstances. He is in fact divinely authorised to interpret the Divine Law; no one else has the right to make any alteration in it.

\* \* \* \* \*



## CHAPTER 16

### DIVORCE

Marriage with all its sacredness is a civil contract in Islam and can be subjected to any reasonable and lawful stipulation. The Western world has realised the hardship of the unnatural and irrational dogma under which it is believed that human agency cannot separate what has been joined together by Allah. Divorce, according to Islam, being a preventive measure against breach of peace, a device for securing an amicable settlement, and after all a salutary safeguard to protect the weaker sex from continuous ill-treatment, due to disagreement or any other reason, has justly been provided as a dissolution of an unhappy marriage which may turn out to be a burden rather than an asset and, contrary to all expectations of happiness and help, may happen to be a horror and hinderance.

According to Hindu law marriage once performed cannot be dissolved under any circumstances. The right of divorce according to the Jewish law belongs to the husband who can exercise it at his own will. The Christian law recognises the right of divorce only when there is faithlessness on the part of either of the parties, but the divorced parties are precluded from marrying again. Islam has effected several reforms in the law of divorce. It has restricted the husband's right to divorce and has given recognition to the wife's right

[212]

[213]

to it. If the right is exercised by the husband it is called *Talaq* which carries the literal significance of "freeing or undoing of a knot," and in case it is claimed by the wife it is called *Khula'* which means "the putting off or taking off a thing." It is a kind of facility provided to the wife in securing divorce from her husband by returning a part or full amount of the *mahr* (dower)

Islam recognises the necessity of divorce in cases when marital relations are poisoned to a degree which makes a peaceful home life impossible. But Islam does not believe in unlimited opportunities for divorce on frivolous and flimsy grounds, because any undue increase in the facilities for divorce would destroy the stability of family life. Therefore, while allowing divorce even on genuine grounds, Islam has taken great care to introduce checks designed to limit the use of available facilities. The French legists Planiol and Ripert have explicitly emphasised Islam's point of view in regard to divorce in these words :

"Divorce is a mischief. However, it is a measure that cannot be avoided for the welfare of the community, because it is the only remedy for another harm which may be more dangerous. The prohibition of divorce, whatever harm it may imply, is like the prohibition of surgery, because the surgeon is compelled to amputate some of the limbs of the patient's body. However, there is no danger, whatsoever, in legislating for divorce (in accordance with the practice established by Islam) since it is not divorce that spoils married life and dissolves its sacred tie, but the misunderstanding that arises between the married couple and hinders the strengthening of this (union by marriage) and demolishes it. Divorce alone puts an end to the hatred that may occur between the husband and his wife before it is aggravated and becomes an intolerable mischief to society."<sup>1</sup>

<sup>1</sup> Hasan Ibrahim Hasan, *Islam, Religious, Political, Social and Economic Study*, p. 274.



Divorce becomes a necessity when the husband and the wife are not pulling on well. It is a sheer foolishness to keep them tied up in matrimonial bond when it is unpleasant to both. It rather enhances the sufferings of the couple and their children rather than increase their happiness. Therefore, it is a natural law that the dissatisfied couple should be separated from the marriage tie for the welfare of the household, children and society. In instituting this doctrine of divorce, Islam did more good to women as men may take several wives in case of disagreement with the first wife but a woman cannot. If a husband is impotent, or if a wife or husband generally resorts to adultery, it is a nuisance to keep them tied up in marriage bond specially when all efforts to bring about a compromise prove unavailing. If the husband or wife becomes permanently diseased or unfit for sexual intercourse, justice demands a divorce.

While permission has been given both to man and woman to obtain a release from the bond of marriage in cases of absolute necessity, the Messenger of Allah (peace and blessings of Allah be upon him) has made it clear that Islam does not regard it as desirable. Ibn Umar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Of all the lawful things, divorce is the most detestable thing in the sight of Allah. (*Abu Dawud*). In another tradition, he admonishes: "Contract marriages and do not give divorce, for Allah does not approve of pleasure seeking males and females."

The Holy Qur'an teaches that even if you dislike a woman, you should do your utmost to keep your marriage intact with her:

"But consort with them in kindness; for if ye hate them it may happen that ye hate a thing wherein Allah hath placed much good." (4 : 19)

If the wife is not beautiful or has some other shortcoming that might not be to the husband's liking, it does not mean that he should make up his mind to get rid of her at once without any further consideration. He should behave patiently. She may have some other redeeming qualities that may be more conducive to a happy married life than beautiful looks. It is just possible that the discovery of those qualities might change his repulsion at first sight into attraction. In the same way, sometimes it so happens that in the beginning of married life, the husband takes a dislike to something in the wife and feels a repulsion towards her but if he is patient with her and lets her show her better side fully, he himself realises that her good qualities more than compensate for her shortcomings. Therefore it is not right for the husband to sever his relations with his wife without a great deal of thinking. Divorce is the very last thing to which one may resort as a necessary social surgery and that, too, only when it becomes absolutely inevitable and all efforts of peaceful living between the husband and the wife miserably fail. Islam exhorts both the husband and the wife to think a hundred and one times before making the final decision of separation, and it has, therefore, afforded all possible opportunities for reconciliation and provided ample time to reflect calmly over the pros and cons of the matter. Remedies are therefore, suggested to avoid divorce as long as possible. The Holy Qur'an says:

"And if you fear a breach between them twain (i.e., the husband and wife), appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment Allah will make them of one mind. Lo! Allah is ever Knower, Aware." (4 : 35)

It was due to such teachings of the Holy Qur'an that the Messenger of Allah (peace and blessings of Allah be upon him) declared divorce to be the most detestable of all lawful things. And it is due to this that, in spite of the facility with which it may be effected, divorce takes place only rarely



among the Muslims, compared with the large number of divorces in Christian countries. The mentality of the Muslim is to face the difficulties of the married life along with its comforts, and to avoid disturbing the disruption of the family relations as long as possible, turning to divorce only as a last resort.

**Principle of Divorce:** The principle of divorce spoken of in the Holy Qur'an, and which in fact includes to a greater or less extent all causes, is the decision no longer to live together as husband and wife. In fact, marriage itself is nothing but an agreement to live together as husband and wife, and when either of the parties finds itself unable to agree to such a life, divorce must follow. It is not, of course, meant that every disagreement between them would lead to divorce; it is only the disagreement to live any more as husband and wife. In the Holy Qur'an such disagreement is called *Shiqaq* (from *shaqq* meaning breaking into two). But not even the *Shiqaq* entitles either party to a divorce, unless all possibilities of reconciliation have been exhausted. The principle of divorce is, therefore, described in the Holy Qur'an thus:

"And if you fear a breach (*Shiqaq*) between them twain (*i.e.*, the husband and wife), appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment Allah will make them of one mind." (4:35)

In this verse, a plan has been put forward for settling disputes between husband and wife. An effort should be made to effect a reconciliation before resorting to a court of law or making the final breach. The plan is to appoint one arbiter from the family of each spouse for the purpose. The two should probe into the real cause or causes of the dispute between the parties and then try to find a suitable way out of it. Of course, the relatives are best qualified for it, knowing as they do the true conditions of the spouses.

The above Verse gives us not only the principle of divorce, which is *Shiqaq* or a disagreement to live together

as husband and wife, but also the process to be adopted when a rupture of marital relations is feared. The two sexes are here placed on a level of perfect equality. A "breach between the two" would imply that either the husband or the wife wants to break off the marriage agreement, and hence either may claim a divorce when the parties can no longer pull on in agreement. In the process to be adopted, both husband and wife are to be represented on a status of equality; an arbiter has to be appointed from his people and another from her people. The two are told to try to remove the differences and reconcile the parties to each other. If agreement cannot be brought about, a divorce will follow.

There is a difference of opinion regarding the powers of the arbiters. According to the Hanafi and the Shafi'i Schools of Thought, the arbiters are not authorized to pass any final decree but may recommend measures for reconciliation, which may be accepted or rejected by the spouses. Of course, if the spouses themselves authorize them to effect divorce or *Khula'* or take any other measure, then they shall be bound to accept their decision. Hasan Basri, Qatada and some other jurists are of the opinion that the arbiters are authorized to enforce reconciliation but not separation. Ibn 'Abbas, Sa'id bin Jubair, Ibrahim Nakh'i, Sha'abi, Muhammad bin Sirin and some other jurists are of the opinion that the arbiters have full authority to enforce their decision about reconciliation or separation whichever they consider to be proper.

Hadrat 'Uthman and Hadrat 'Ali (Allah be pleased with them) used to authorise the arbiters appointed by them with full powers to effect reconciliation or separation as required by the circumstances. For instance, when the case of 'Aqil, son of Abu Talib, and his wife Fatima, daughter of 'Utba bin Rabi'a, was brought in the court of Hadrat 'Uthman (Allah be pleased with him), he appointed as arbiter Ibn 'Abbas (Allah be pleased with him) from the family of the



husband and Mu'awiya (Allah be pleased with him) from the family of the wife and told them that they were authorized to cause separation between them, if required by circumstances. Likewise Hadrat 'Ali (Allah be pleased with him) appointed arbiters in a similar case and authorised them to effect reconciliation between the spouses or separate them. This shows that the arbiters as such do not possess judicial powers, but if at the time of their appointment, the authority concerned empowers them with judicial powers, their decision shall be binding and enforced like other judicial decisions.

The breach of the marriage agreement may arise from many causes or from the conduct of either party; for instance, if either of them misconducts himself or herself, or either of them is consistently cruel to the other, or; as may sometimes happen, there is incompatibility of temperament to such an extent that they cannot live together in marital agreement. At first sight it may look like giving too much latitude to the parties to allow them to end the marriage contract, even if there is no reason other than incompatibility of temperament, but this much is certain that if there is such disagreement that the husband and the wife cannot pull on together, it is better for themselves, for their offspring and for society in general that they should be separated rather than that they should be compelled to live together. No home is worth the name wherein instead of peace there is wrangling, and marriage is meaningless if there is no love between the husband and wife. It is an error to suppose that such latitude tends to destroy the stability of marriage, because marriage is entered into as a permanent and sacred relation based on love between a man and woman, and divorce is only a remedy when marriage fails to fulfil its object.

**Procedure of Divorce:** Divorce may be given orally, or in writing, but it must take place in the presence of witnesses:

"Then, when they have reached their term, take them back in kindness or part from them in kindness, and call to witness two just men among you, and keep your testimony upright for Allah." (65:2)

It may be done orally or by writing attended with actual utterance of divorce. Whatever the actual words used, they must expressly convey the intention that the marriage tie is being dissolved.

Divorce, if given at all, should be pronounced when the woman is in a state of purity. The Holy Qur'an says:

"When ye divorce women, divorce them at their prescribed periods, and count (accurately) their prescribed periods. And fear Allah, your Lord." (65:1)

According to the above Verse, the first principle is that the divorce should be pronounced in the period of purity when menses are over. It has two important reasons. *Firstly*, during menstruation women become irritable and tense due to physiological changes. It is forbidden to divorce a wife in consequence of a marital rift arising during her menstruation. *Secondly*, during the period of menstruation the marriage partners are cut off from that physical intimacy which is the main source of their mutual attraction and adhesion. When the difficult period is over, it is possible that with the resumption of sexual relations tender emotions will prevail and the resentment which inclined the husband to divorce will melt away.

The second point is that the pronouncement of divorce should be spread over three periods (three monthly courses) and then the final decision should be made whether one is prepared to take her back or one has decided to bid her good-bye for ever.

It appears from the above Verse that if a divorce takes place, it becomes irrevocable only after the prescribed time



husband and Mu'awiya (Allah be pleased with him) from the family of the wife and told them that they were authorized to cause separation between them, if required by circumstances. Likewise Hadrat 'Ali (Allah be pleased with him) appointed arbiters in a similar case and authorised them to effect reconciliation between the spouses or separate them. This shows that the arbiters as such do not possess judicial powers, but if at the time of their appointment, the authority concerned empowers them with judicial powers, their decision shall be binding and enforced like other judicial decisions.

The breach of the marriage agreement may arise from many causes or from the conduct of either party; for instance, if either of them misconducts himself or herself, or either of them is consistently cruel to the other, or; as may sometimes happen, there is incompatibility of temperament to such an extent that they cannot live together in marital agreement. At first sight it may look like giving too much latitude to the parties to allow them to end the marriage contract, even if there is no reason other than incompatibility of temperament, but this much is certain that if there is such disagreement that the husband and the wife cannot pull on together, it is better for themselves, for their offspring and for society in general that they should be separated rather than that they should be compelled to live together. No home is worth the name wherein instead of peace there is wrangling, and marriage is meaningless if there is no love between the husband and wife. It is an error to suppose that such latitude tends to destroy the stability of marriage, because marriage is entered into as a permanent and sacred relation based on love between a man and woman, and divorce is only a remedy when marriage fails to fulfil its object.

**Procedure of Divorce:** Divorce may be given orally, or in writing, but it must take place in the presence of witnesses:

"Then, when they have reached their term, take them back in kindness or part from them in kindness, and call to witness two just men among you, and keep your testimony upright for Allah." (65:2)

It may be done orally or by writing attended with actual utterance of divorce. Whatever the actual words used, they must expressly convey the intention that the marriage tie is being dissolved.

Divorce, if given at all, should be pronounced when the woman is in a state of purity. The Holy Qur'an says:

"When ye divorce women, divorce them at their prescribed periods, and count (accurately) their prescribed periods. And fear Allah, your Lord." (65:1)

According to the above Verse, the first principle is that the divorce should be pronounced in the period of purity when menses are over. It has two important reasons. *Firstly*, during menstruation women become irritable and tense due to physiological changes. It is forbidden to divorce a wife in consequence of a marital rift arising during her menstruation. *Secondly*, during the period of menstruation the marriage partners are cut off from that physical intimacy which is the main source of their mutual attraction and adhesion. When the difficult period is over, it is possible that with the resumption of sexual relations tender emotions will prevail and the resentment which inclined the husband to divorce will melt away.

The second point is that the pronouncement of divorce should be spread over three periods (three monthly courses) and then the final decision should be made whether one is prepared to take her back or one has decided to bid her good-bye for ever.

It appears from the above Verse that if a divorce takes place, it becomes irrevocable only after the prescribed time



and that no divorce is valid if not made revocable within the prescribed time. In other words, a wife can be taken back for sexual embrace within the prescribed time but not beyond it. It is also clear that before the expiration of the fixed time, no divorce is irrevocable. Now what is the time prescribed for making a divorce irrevocable? It is three courses in case of menstruating and consummated women. The Holy Qur'an says:

"And the divorced women shall keep themselves in waiting for three courses." (2:228)

This period of waiting is prescribed for women so that the state of pregnancy should become clear and no doubt is left in regard to the fatherhood of the new born child. Secondly both the parties should be given a time limit to reconsider the consequences of permanent separation within this time of three monthly courses and ponder hundred and one time before taking the final step. This period of three monthly courses is prescribed for those mature women who are free and their husbands have cohabited with them. If a woman is of very advanced age and she does not menstruate, her period of waiting is three months. In case of pregnancy this period extends to delivery no matter it is one day or nine months. There is no 'Idda for that woman with whom her husband has not cohabited.

Jurists differ in the interpretation of this Verse. The Hanafi jurists are of the opinion that the husband retains the right of reunion up to the time of purification of the wife by a bath after the third monthly course. This is the opinion of Hadrat Abu Bakr, 'Umar, 'Ali, Ibn 'Abbas, Abu Musa Ash'ari, Ibn Mas'ud (Allah be pleased with them) and some other companions of the first rank. The Shafi'i and Maliki jurists, however, are of the opinion that the husband forfeits the right of reunion as soon as the wife has a discharge of the third monthly course. This opinion

is held by Hadrat 'Aisha, Ibn 'Umar and Zaid bin Thabit (Allah be pleased with them). It must, however, be clearly understood that the husband retains the right of reunion only in that case when he has pronounced one divorce or two divorces, but he forfeits the right of reunion when he pronounces three divorces.

The prescribed period is three months in case of women whose menstruation has stopped or the time up to delivery in case of pregnant woman. The Holy Qur'an says :

"And for such of your women as despair of menstruation, if ye doubt, their period (of waiting) shall be three months, along with those who have it not. And for those with child (pregnant women), their period shall be till they bring forth their burden." (65:4)

What does the prescribed time of waiting mean? It is merely a period of temporary separation during which conjugal relationship may be re-established. Thus the period of waiting is only a chance given to the couple for reunion and to make divorce revocable before the prescribed time is reached. This is corroborated by other Verses of the Holy Qur'an as follows:

"And their husbands would do better to take them back in that case if they desire a reconciliation." (2:228)

Here it has been distinctly stated that the divorce is revocable within the prescribed time. It has been corroborated by another Verse:

"Divorce must be pronounced twice and then (a woman) must be retained in honour or released in kindness." (2:229)

It means that the husband must make his decision final after the completion of the two divorces and before the completion of the third divorce, within which he should take back his wife. That is only possible in case there is time



and that no divorce is valid if not made revocable within the prescribed time. In other words, a wife can be taken back for sexual embrace within the prescribed time but not beyond it. It is also clear that before the expiration of the fixed time, no divorce is irrevocable. Now what is the time prescribed for making a divorce irrevocable? It is three courses in case of menstruating and consummated women. The Holy Qur'an says:

"And the divorced women shall keep themselves in waiting for three courses." (2:228)

This period of waiting is prescribed for women so that the state of pregnancy should become clear and no doubt is left in regard to the fatherhood of the new born child. Secondly both the parties should be given a time limit to reconsider the consequences of permanent separation within this time of three monthly courses and ponder hundred and one time before taking the final step. This period of three monthly courses is prescribed for those mature women who are free and their husbands have cohabited with them. If a woman is of very advanced age and she does not menstruate, her period of waiting is three months. In case of pregnancy this period extends to delivery no matter it is one day or nine months. There is no *'Idda* for that woman with whom her husband has not cohabited.

Jurists differ in the interpretation of this Verse. The Hanafi jurists are of the opinion that the husband retains the right of reunion up to the time of purification of the wife by a bath after the third monthly course. This is the opinion of Hadrat Abu Bakr, 'Umar, 'Ali, Ibn 'Abbas, Abu Musa Ash'ari, Ibn Mas'ud (Allah be pleased with them) and some other companions of the first rank. The Shafi'i and Maliki jurists, however, are of the opinion that the husband forfeits the right of reunion as soon as the wife has a discharge of the third monthly course. This opinion

is held by Hadrat 'Aisha, Ibn 'Umar and Zaid bin Thabit (Allah be pleased with them). It must, however, be clearly understood that the husband retains the right of reunion only in that case when he has pronounced one divorce or two divorces, but he forfeits the right of reunion when he pronounces three divorces.

The prescribed period is three months in case of women whose menstruation has stopped or the time up to delivery in case of pregnant woman. The Holy Qur'an says :

"And for such of your women as despair of menstruation, if ye doubt, their period (of waiting) shall be three months, along with those who have it not. And for those with child (pregnant women), their period shall be till they bring forth their burden." (65:4)

What does the prescribed time of waiting mean? It is merely a period of temporary separation during which conjugal relationship may be re-established. Thus the period of waiting is only a chance given to the couple for reunion and to make divorce revocable before the prescribed time is reached. This is corroborated by other Verses of the Holy Qur'an as follows:

"And their husbands would do better to take them back in that case if they desire a reconciliation." (2:228)

Here it has been distinctly stated that the divorce is revocable within the prescribed time. It has been corroborated by another Verse:

"Divorce must be pronounced twice and then (a woman) must be retained in honour or released in kindness." (2:229)

It means that the husband must make his decision final after the completion of the two divorces and before the completion of the third divorce, within which he should take back his wife. That is only possible in case there is time



of two courses or two months to consider. In case of *Talaq Bid'a* (divorce by immediate utterance of the divorce formula three times) there is no time for consideration and hence it is against the spirit of the Holy Qur'an and Ahadith. The Holy Qur'an rather warned the people not to adopt this method saying:

"And do not play with Allah's Commandments." (2:231)

The Messenger of Allah (peace and blessings of Allah be upon him) condemned it. Mahmud bin Labeed (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) was informed about a man who gave three divorces at a time to his wife. Then he got up enraged and said: Are you playing with the Book of the Almighty and Glorious Allah while I am (still) amongst you? So much so that a man got up and said: Shall I not kill him? (*Nasa'i*)

The Hadith records that 'Abdullah bin 'Umar (Allah be pleased with him) divorced his wife when she was having her monthly course. This was reported to the Messenger of Allah (peace and blessings of Allah be upon him), who was exceedingly displeased and observed: "Order him to take her back and divorce her when she is in a pure state after menstruation."

In another tradition it is reported that the Messenger of Allah (peace and blessings of Allah be upon him) admonished Hadrat Ibn 'Umar (Allah be pleased with him) on this act and taught the procedure of divorce thus: "Ibn 'Umar, you acted in the wrong manner. The correct way is to wait for the period of purity and when the third period has arrived, either pronounce a final divorce or keep her." Hadrat Ibn 'Umar (Allah be pleased with him) submitted: "If I had pronounced divorce thrice, would I retain the right of taking her back." "No, she would be cut off from you and it would have been a sin." (*Darqutni and Ibn Abi Shaiba*)

The above makes it clear that simultaneous pronouncements of three divorces is a sin. The object of *Shari'ah*, as has been explained above, is to maintain as far as possible the matrimonial tie; but if it is broken it should be done when all chances of healing the rift and bringing about a reconciliation have been exhausted.

From what has been stated above, the following conclusion is drawn. Every possible attempt must first be made for reconciliation between the married couple before the completion of the prescribed period. The Judges from the parties should arrive at a compromise for domestic peace. If the husband dislikes a wife, he was commanded by Allah not to dislike her. If still after that, there is disagreement, then he may divorce her. In order to check hasty action and leave the door open for reconciliation at many stages, the right method of pronouncing divorce as taught in the Holy Qur'an and the Traditions is this: if and when it becomes inevitable it should be pronounced only when she is not in her menses and even if a dispute arises during the monthly period, it is not right to pronounce divorce during that condition, but he should wait for her to cleanse herself and then may pronounce a single divorce, if he so likes. Then he should wait for her next monthly course and pronounce the second divorce after she is cleansed, if he so wishes. Then he should wait for the next monthly course to pronounce the third and final divorce after she is cleansed. It is, however, better to wait and reconsider the matter after the first and second pronouncement for in the case of two divorces, the husband retains the right to take her back as his wife after their expiry. But if divorce is pronounced for the third time, the husband forfeits the right to take her back nor can the couple remarry.

As for those ignorant people who pronounce divorce thrice at one and the same sitting, they commit a heinous sin against the Law. The Messenger of Allah (peace and



blessings of Allah be upon him) has very severely denounced this practice.

**Kinds of Divorce:** Divorce is of three kinds: the *Ahsan* (or most laudable); the *Hasan* (or laudable); and the *Bid'a* (or irregular).

a) *Talaq Ahsan* or the most laudable divorce is where the husband repudiates his wife by making one pronouncement within the term of *Tuhr* (purity, when the woman is not passing through the period of menses) during which he has not had sexual intercourse with her, and she is left to observe her *'Idda*.

b) *Talaq Hasan* or laudable divorce is where a husband repudiates an enjoyed wife by three sentences of divorce, in three *Tuhurs*.

c) *Talaq Bid'a* or irregular divorce is where a husband repudiates his wife by three divorces at once. According to the majority of the jurists, the *Talaq* holds good, but it is against the spirit of the *Shari'ah* and therefore, the man who follows this course in divorce is an offender in the eye of Islamic Law. The earlier it is abolished from the society by legislation, the better, because it has got another concomitant factor called *Ila'* which will be described later on.

#### Some Other Forms of Divorce:

a) **Divorce by Writing:** It becomes irrevocable in absence of words showing a different intention and takes effect immediately on execution of the document whether the formula is uttered or not. This is according to Hanafi law.

b) **Divorce by *Li'an* or Imprecation:** It also takes effect immediately after *li'an* is taken. The word *li'an* is derived from *la'na* meaning curse. *Li'an* and *mula'ana* signify literally mutual cursing. Technically, however, the

two words indicate that particular form of bringing about separation between the husband and the wife with the help of four oaths and one curse upon oneself if one tells a lie. This is meant to support one's own truthfulness. The four oaths stand for four witnesses in order to prove the charge of adultery. The Holy Qur'an says:

"And as for those who accuse their wives and have no witness except themselves, the evidence of one of these should be taken four times, calling Allah to witness that he is of the truthful one. And the fifth time that the curse of Allah be on him if he is one of the liars. And it shall avert the punishment from her if she would testify four times, calling Allah to witness that he is one of the liars, and the fifth time that the wrath of Allah be upon her if he is one of the truthful." (24:6-9)

So when any husband accuses his wife of adultery, then they should appear before the Qadi or an officer of religious order and he shall put both to oath. First the husband should be made to say that he makes Allah witness and repeat it four times and on the fifth time should say that the curse of Allah be on him if he is false. Then the woman should say four times that the husband's accusation is false and unjust and on the fifth time should say that the curse of Allah be on her if the accusation of the husband is just and correct. Upon taking this oath the Qadi or the officer will order separation between them. This kind of oath taking is called *Li'an*.

The Holy Qur'an makes adultery a severely punishable offence, since it aims at the destruction of the whole social fabric. At the same time it makes an accusation of adultery an equally serious offence, punishable like adultery if strong evidence of adultery be not forthcoming. This is to stop the tongue of slanderer, which is generally very busy, and does not spare even the most innocent persons. One man has no concern with another's private affairs, but if a man has strong reasons to believe that his own wife is adulterous, the



case is quite different. The *li'an* is suggested in this case, as the means of bringing about separation between husband and wife, for, whether the accusation is right or wrong, it is in the interests of both to get separated. The following *ahadith* deal with this subject:

Nafi' reported on the authority of Ibn 'Umar (Allah be pleased with him) that a person invoked curse on his wife during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him), so he effected separation between them and traced the lineage of the son to his mother. (*Muslim*)

Ibn 'Umar (Allah be pleased with him) reported: Allah's Messenger (peace and blessings of Allah be upon him) asked a person from the Ansar and his wife to invoke curse (upon one another in order to testify to their truthfulness), and then effected separation between them. (*Muslim*)

After going through the *ahadith* concerning *li'an*, the following conclusions are drawn:

- i) *Li'an* must be observed in the presence of a judge or Qadi. It is not effective in a private company.
- ii) It is the duty of the Qadi to awaken the consciousness of both the husband and the wife to the grave responsibility they are undertaking. The false oath and baseless slandering are heinous crimes which provoke the wrath of Allah.
- iii) At the conclusion of *li'an*, the separation is declared by the Qadi officially. This is the view held by Imam Abu Hanifa, which is supported by the *ahadith* that after *li'an*, the Messenger of Allah (peace and blessings of Allah be upon him) made a declaration of separation between the husband and the wife. There are other jurists who think that *li'an* automatically annuls the marriage.
- iv) The separation effected by *li'an* is for ever and the husband and the wife cannot be united again with

the help of *Nikah* under any set of circumstances as it is possible in case of divorce.

- v) The *mahr* (dower) paid by the husband to the wife cannot be taken back by the former in case of *li'an*, even if his allegation is correct.
- vi) If the husband, after levelling charge of fornication against his wife, refrains from invoking a curse upon himself (*li'an*), he would be treated as a criminal. Most of the jurists are of the opinion that he should be punished as a slanderer and awarded eighty stripes. Imam Abu Hanifa is of the view that he should be imprisoned. If the woman hesitates at the point of invoking curse, she should be stoned to death, for it proves her guilt. Imam Abu Hanifa suggests imprisonment for her too and not stoning as taking of oaths four times by man and then invoking curse by him and the reluctance on the part of woman in invoking curse strengthen the idea that she might have committed fornication, but these oaths and imprecations do not stand parallel to four witnesses which are essential to establish the charge of fornication.

c) Divorce by Mubarat : In this case, a divorce is effected by mutual consent of husband and wife. This divorce becomes irrevocable immediately after the consent takes place.

Incidents Following Divorce: Within the period of waiting the husband is bound to maintain the wife and her children begotten by him. The Holy Qur'an says:

"In that case the father of the child shall, in the fair known way, be responsible for the food and clothing."  
(2:233)

The wife is bound to suckle the children up to the



case is quite different. The *li'an* is suggested in this case, as the means of bringing about separation between husband and wife, for, whether the accusation is right or wrong, it is in the interests of both to get separated. The following *ahadith* deal with this subject:

Nafi' reported on the authority of Ibn 'Umar (Allah be pleased with him) that a person invoked curse on his wife during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him), so he effected separation between them and traced the lineage of the son to his mother. (*Muslim*)

Ibn 'Umar (Allah be pleased with him) reported: Allah's Messenger (peace and blessings of Allah be upon him) asked a person from the Ansar and his wife to invoke curse (upon one another in order to testify to their truthfulness), and then effected separation between them. (*Muslim*)

After going through the *ahadith* concerning *li'an*, the following conclusions are drawn:

- i) *Li'an* must be observed in the presence of a judge or Qadi. It is not effective in a private company.
- ii) It is the duty of the Qadi to awaken the consciousness of both the husband and the wife to the grave responsibility they are undertaking. The false oath and baseless slandering are heinous crimes which provoke the wrath of Allah.
- iii) At the conclusion of *li'an*, the separation is declared by the Qadi officially. This is the view held by Imam Abu Hanifa, which is supported by the *ahadith* that after *li'an*, the Messenger of Allah (peace and blessings of Allah be upon him) made a declaration of separation between the husband and the wife. There are other jurists who think that *li'an* automatically annuls the marriage.
- iv) The separation effected by *li'an* is for ever and the husband and the wife cannot be united again with

the help of *Nikah* under any set of circumstances as it is possible in case of divorce.

- v) The *mahr* (dower) paid by the husband to the wife cannot be taken back by the former in case of *li'an*, even if his allegation is correct.
- vi) If the husband, after levelling charge of fornication against his wife, refrains from invoking a curse upon himself (*li'an*), he would be treated as a criminal. Most of the jurists are of the opinion that he should be punished as a slanderer and awarded eighty stripes. Imam Abu Hanifa is of the view that he should be imprisoned. If the woman hesitates at the point of invoking curse, she should be stoned to death, for it proves her guilt. Imam Abu Hanifa suggests imprisonment for her too and not stoning as taking of oaths four times by man and then invoking curse by him and the reluctance on the part of woman in invoking curse strengthen the idea that she might have committed fornication, but these oaths and imprecations do not stand parallel to four witnesses which are essential to establish the charge of fornication.

c) Divorce by Mubarat : In this case, a divorce is effected by mutual consent of husband and wife. This divorce becomes irrevocable immediately after the consent takes place.

Incidents Following Divorce: Within the period of waiting the husband is bound to maintain the wife and her children begotten by him. The Holy Qur'an says:

"In that case the father of the child shall, in the fair known way, be responsible for the food and clothing."  
(2:233)

The wife is bound to suckle the children up to the



completion of two years. The Holy Qur'an says :

"The (divorced) mothers shall suckle their children for two whole years, if the father desire the suckling to be completed." (2:233)

This also applies to all cases in which the husband and the wife have separated in any manner (divorce, *Khula'* or judicial separation) and the child is still suckling.

Every divorce must be followed by a period of waiting called '*Idda*'. The Holy Qur'an says :

"O' Prophet! When you divorce women, divorce them for their *Idda* (prescribed or waiting time)." (65 : 1)

The '*Idda*' is about three months :

"Women who are divorced shall wait, keeping themselves apart, three (monthly) courses." (2:228)

In the case of women who do not menstruate as well as those whose courses have stopped, the '*Idda*' is three months and in the case of pregnant women, the waiting period is till delivery. The wife is bound to observe '*Idda*' if the marriage is consummated.

The wife becomes entitled to deferred dower and prompt dower if not paid. If the marriage was not consummated, she is entitled to only half dower.

In case of death within the period, both inherit to one another if the divorce has not become irrevocable.

The parties cannot remarry in case of irrevocable divorce by the second husband and the completion of a fresh period of '*Idda*'.

**Charitable View of Divorce:** Divorce is looked upon as a necessity in marital relations, under the varying human conditions, irrespective of moral turpitude on the part of husband or wife. The Qur'an takes the most charitable view

of the necessity for divorce and therefore recommends as much kindness towards women in the case of divorce as in that of marriage. Again and again stress is laid on this point that woman is to be treated with equal kindness and generosity, whether she is a sharer in a man's weal or woe as wife or one from whom he has been compelled to part company. Marital differences like other differences may be as often honest as not, but the Holy Qur'an recommends that the most charitable view of them should be taken. The reasonable course of separation between a wife and husband provided in Islam meets all exigencies of the relations between them, tempering mercy with justice and avoids the dire consequences and hardships witnesses so often where the separation is restricted by man-made or the so-called religious laws. Superficial observers consider that the divorce is too easy in Islam making the position of women too low and precarious and also leading to numerous divorces. If the statistics of divorces in all the countries of the world are looked into, it would be clear that there are more divorces among the advanced non-Muslim people than among the Muslims. It is also to be observed that actually criminal and immoral actions like murder, fabrication of false-evidence and intentionally and studiedly putting wives in the way of heinous and adulterous practices to obtain a separation have never been perpetrated by Muslims.

#### Dissolution of Marriage :

a) *Divorce by Khula'*: So far we have given a brief account of the rights given to husband for securing release from the marriage bond and the conditions he is required to observe. Similar rights have been given by Islam to the female sex. There are two ways in which a woman is allowed to seek separation from her husband: *firstly*, through mutual agreement between the husband and the wife which is called *Khula'*, *secondly* through a judicial decree by filing a suit against the husband in a court of law. It will be seen that



completion of two years. The Holy Qur'an says :

"The (divorced) mothers shall suckle their children for two whole years, if the father desire the suckling to be completed." (2: 233)

This also applies to all cases in which the husband and the wife have separated in any manner (divorce, *Khula'* or judicial separation) and the child is still suckling.

Every divorce must be followed by a period of waiting called '*Idda*. The Holy Qur'an says :

"O' Prophet! When you divorce women, divorce them for their *Idda* (prescribed or waiting time)." (65 : 1)

The '*Idda* is about three months :

"Women who are divorced shall wait, keeping themselves apart, three (monthly) courses." (2: 228)

In the case of women who do not menstruate as well as those whose courses have stopped, the '*Idda* is three months and in the case of pregnant women, the waiting period is till delivery. The wife is bound to observe '*Idda* if the marriage is consummated.

The wife becomes entitled to deferred dower and prompt dower if not paid. If the marriage was not consummated, she is entitled to only half dower.

In case of death within the period, both inherit to one another if the divorce has not become irrevocable.

The parties cannot remarry in case of irrevocable divorce by the second husband and the completion of a fresh period of '*Idda*.

**Charitable View of Divorce:** Divorce is looked upon as a necessity in marital relations, under the varying human conditions, irrespective of moral turpitude on the part of husband or wife. The Qur'an takes the most charitable view

of the necessity for divorce and therefore recommends as much kindness towards women in the case of divorce as in that of marriage. Again and again stress is laid on this point that woman is to be treated with equal kindness and generosity, whether she is a sharer in a man's weal or woe as wife or one from whom he has been compelled to part company. Marital differences like other differences may be as often honest as not, but the Holy Qur'an recommends that the most charitable view of them should be taken. The reasonable course of separation between a wife and husband provided in Islam meets all exigencies of the relations between them, tempering mercy with justice and avoids the dire consequences and hardships witnesses so often where the separation is restricted by man-made or the so-called religious laws. Superficial observers consider that the divorce is too easy in Islam making the position of women too low and precarious and also leading to numerous divorces. If the statistics of divorces in all the countries of the world are looked into, it would be clear that there are more divorces among the advanced non-Muslim people than among the Muslims. It is also to be observed that actually criminal and immoral actions like murder, fabrication of false-evidence and intentionally and studiedly putting wives in the way of heinous and adulterous practices to obtain a separation have never been perpetrated by Muslims.

#### Dissolution of Marriage :

a) **Divorce by *Khula'*:** So far we have given a brief account of the rights given to husband for securing release from the marriage bond and the conditions he is required to observe. Similar rights have been given by Islam to the female sex. There are two ways in which a woman is allowed to seek separation from her husband: *firstly*, through mutual agreement between the husband and the wife which is called *Khula'*, *secondly* through a judicial decree by filing a suit against the husband in a court of law. It will be seen that



the wife is not at liberty, like the husband, to get herself released by an outright declaration of divorce. In case her husband refuses to release her from the marriage bond, she has to go to a court of law and obtain a decree in her favour.

*Khula'* in its literal sense means "to draw off or dig up", and in law it signifies an agreement between the husband and wife, with a view to dissolve the contract of marriage in lieu of compensation paid by the wife to her husband. When a divorce is effected by mutual consent it is called *mubarat*. The Holy Qur'an expressly sanctioned *Khula'* form of repudiation:

"And it is not lawful for you that ye take from women aught of that which ye have given them; except (in the case) when both fear that they may not be able to keep within the limits (imposed by) Allah. And if ye fear that they may not be able to keep the limits of Allah, in that case it is no sin for either of them if the woman ransom herself." (2:229)

Hence whenever enmity exists between the husband and wife, and they apprehend that the matrimonial alliance is not likely to serve the ends of marriage, then it is perfectly lawful for the women to seek *Khula'*. As in the case of divorce by the husband, the legal permission given to woman to seek and obtain separation through mutual agreement or the intervention of court does not imply moral approval of the act, Islam has unreservedly condemned men and women who use their legal rights of divorce on any except legitimate grounds in absolutely unbearable conditions. Thus a tradition of the Messenger of Allah (peace and blessings of Allah be upon him) states:

"Allah does not like men and women who seek variety of sexual experience."

Another tradition says:

"Allah has showered curses on those men and women who make frequent use of divorce for the sake of sexual enjoyment."

A third report says: The Messenger of Allah (peace and blessings of Allah be upon him) said:

"A woman who seeks divorce from her husband without any excess on his part will be cursed by Allah and His Angels."

Yet another tradition says:

"Women who make a play of their divorce rights are hypocrites."

These warnings and moral exhortations are intended to discourage men and women from disturbing the stability of family life and resorting to separation in cases of unavoidable necessity.

This is the moral aspect of the question. Apart from moral dissuasion, there is no dispute about a woman's right to seek separation from her husband.

If the husband and the wife agree between themselves on some terms regarding divorce, the same shall be enforced. But if the case goes to the court, it will first of all try to ascertain whether the wife really dislikes her husband so much that she cannot live with him any longer. Then if the court is satisfied that they cannot live together happily, it shall fix compensation anything that it considers proper, and the husband shall have to accept that and divorce his wife. The jurists are generally of the opinion that the compensation should not exceed the dower given by the husband.

In such a case, the husband forfeits the right of reunion after the divorce because it has been bought, so to speak, by the wife. Of course, it is lawful for them to remarry with mutual consent.



According to the majority of the Jurists, the terms for the wife in the case of *Khula'* is the same as that of divorce. But Abu Dawud, Tirmidhi, Ibn Majah and others have reported Traditions to the effect that the Messenger of Allah (peace and blessings of Allah be upon him) prescribed only one monthly course as the term for the wife after the divorce, and Hadrat 'Uthman (Allah be pleased with him) decided a case in accordance with this.<sup>1</sup>

b) *Conditions of Khula'*: When divorce is obtained by the wife from her husband by compensation, it is called *Khula'* in the Islamic Law. The Holy Qur'an says:

"And it is not lawful for you that ye take from women aught of that which ye have given them; except (in the case) when both fear that they may not be able to keep within the limits (imposed by) Allah. And if ye fear that they may not be able to keep the limits of Allah, in that case it is no sin for either of them if the woman ransom herself." (2:229)

The following orders flow from this Verse:

- (1) The woman should exercise the right of *Khula'* when she fears that the limits ordained by Allah are in danger of being broken. Like Divorce, *Khula'* is also an undesirable act, yet when breach of Allah's limits is feared, it is the legal duty of the woman to resort to *Khula'*.
- (2) The woman must purchase her release from the marriage tie by paying a part or whole of the sum she received as dower from the man.
- (3) The agreement of the husband is necessary for the *Khula'* takes effect with the mutual consent of the parties.
- (4) When the woman offers to pay recompense and man declines the offer, the woman is entitled to go to the court.

1. Ibn Kathir, Vol. 1, p. 276.

Three questions call for discussion at this stage;

*Firstly*, in what form can the fear of the breach of Allah's limits be established?

*Secondly*, what is the just standard in fixing the rate of recompense.

*Thirdly*, what course should the Qadi (the Judge) follow if the husband does not agree to the demand of *Khula'* by the woman?

In order to know answers to these questions we must study the legal decisions of the Messenger of Allah (peace and blessings of Allah be upon him) and the Rightly-guided Caliphs (Allah be pleased with them). These decisions show the spirit and principles which the law-courts should apply to cases brought by women against their husbands.

One Jamila bint Ubi bin Salool hated the physical ugliness of her husband. She presented her case to the Messenger of Allah (peace and blessings of Allah be upon him) in the following words:

"O' Messenger of Allah! nothing can ever unite his head with mine. When I raised my veil I saw him coming in the company of a few men and he was the darkest, shortest and ugliest of them all. By God I do not dislike him because of any defect in his faith or morality. I just hate his ugly looks. By God! If I did not fear Allah, I would have spat on his face when he came near me."  
(Ibn Jarir)

Bukhari and Nasa'i give the following version of her statement:

"I do not find any fault in his faith or morality but I fear I might commit infidelity to Islam."

The phrase "I might commit infidelity to Islam" clearly denotes that if she lived with that man she feared she might



not remain faithful to Allah's orders *i.e.*, to obey her husband and safeguard her purity and honour. The Messenger of Allah (peace and blessings of Allah be upon him) heard this complaint and observed: "Will you return him the garden which he had given to you." She answered: "O' yes, Messenger of Allah! I shall give even more if he wants."

"No, not more. Just return him his garden," observed the Messenger of Allah (peace and blessings of Allah be upon him). He (the Holy Prophet) then ordered: "Thabit, accept the garden and give her a divorce." (*Bukhari and Nasa'i*)

Habiba bint Sehl al-Nasaria was another wife of Thabit.

Imam Malik and Abu Dawud reported her case as follows: "One morning as the Messenger of Allah (peace and blessings of Allah be upon him) came out of his house, he found Habiba waiting. The Messenger of Allah (peace and blessings of Allah be upon him) enquired: "What is the matter?" She submitted—"I cannot pull on with Thabit." When Thabit arrived, the Messenger of Allah (peace and blessings of Allah be upon him) said to him, "This is Habiba bint Sehl. She has stated what Allah wishes her to state."

Habiba submitted: "O' Messenger of Allah! All that Thabit gave me I have with me."

The Messenger of Allah (peace and blessings of Allah be upon him) ordered Thabit to take all that and release Habiba from the marriage tie.

Abu Dawud and Ibn Jarir give the following version of the above case on the authority of Hadrat 'A'isha (Allah be pleased with her):

"Habiba was so severely beaten by Thabit that she suffered a bone injury."

Habiba lodged a complaint with the Messenger of Allah (peace and blessings of Allah be upon him), who ordered Thabit:

"Take a portion of her wealth and separate from her."

The case of a woman and a man was brought before Hadrat 'Umar' (Allah be pleased with him). He advised the woman to be patient and suggested that she should continue to live with her husband. The woman refused, whereupon he shut her up in a room full of garbage. He (Allah be pleased with him) released her from this prison after three days and asked: "How fared thee?"

She replied, "By God, these were the only nights that I passed in peace."

On hearing this Hadrat 'Umar' (Allah be pleased with him) ordered her husband: "Give her *Khula'*, even if you obtain only her ear-rings in return."<sup>1</sup>

Rubih bint Mu'adh bin Afra offered all her property to her husband and demanded *Khula'*. He refused. The case was brought before Hadrat 'Umar' (Allah be pleased with him), who ordered the husband: "Take even the tiniest hair of her head and give her *Khula'*."<sup>2</sup>

c) *Grounds for demanding Khula'*: The cases cited above establish the following grounds for demanding *Khula'*:

- (1) In the first case the Messenger of Allah (peace and blessings of Allah be upon him) held that the complaint of the woman that her husband was ugly and loathsome was adequate ground for granting *Khula'*.

1 Kashf al-Ghama, Vol. II.

2 Abdul Razzaq on the authority of Fateh-ul-Bari.



When it is manifest that a man hates his wife or the wife hates her husband, Divorce and *Khula'* are perfectly justified and valid measures, for the consequences to religion, morality and civilization of keeping a man and woman forcibly yoked together are far worse than the consequences of Divorce and *Khula'*.

In the second case cruelty was held to be a sufficient ground for demanding *Khula'*.

- (2) The action of Hadrat 'Umar (Allah be pleased with him) shows that the judge can adopt a suitable method to ascertain the feelings of hate and aversion in the heart of a woman so that the matter is put beyond a shadow of doubt.

Hadrat 'Umar (Allah be pleased with him) also confirms that it is not necessary to go into the causes of hate and aversion. This is quite reasonable.

There may be some causes which when described will not strike the listener as sufficient to warrant hatred, but, which are quite sufficient for one who has to suffer them day and night. The only duty of the Judge is therefore to ascertain the existence of antipathy in the heart of the woman.

- (3) The judge can make an attempt to reconcile the woman to her husband by preaching and advice, but he cannot compel her against her wishes, for *Khula'* is her God-given right.
- (4) The question whether the woman's demand of *Khula'* is based on genuine need or lust is not justiceable at all. The woman's right of *Khula'* is parallel to the man's right of divorce. Lust may be the motivating force of both *Khula'* and Divorce. When man's right of divorce is not subject to the restraint that its use should not be motivated by lust. In a purely legal sense, the woman's right to *Khula'* cannot be subjected to any moral restraint. If the woman is in genuine need of *Khula'* it would

be cruel to deny to her: If she is lecherous, denial of *Khula'* will defeat the most important object of *Shari'ah* for it is better for a woman to take a score of men as husbands than as illicit lovers.

- (5) *Khula'* is synonymous with one irrevocable divorce, that is, after it the husband does not retain the right to turn to his wife during the waiting period.

But if the woman wishes to enter into second marriage with him, she can do so, for this is not final divorce, which entails the condition of *Tahlil* as described above.

- (6) Allah has ordained no ceiling on the amount of recompense to be paid for *Khula'*. However, the Messenger of Allah (peace and blessings of Allah be upon him) considered it undesirable for a husband and to take in recompense for *Khula'* more than he had paid as dower to his wife.

#### Other Causes of Dissolution of Marriage:

a) *Apostasy*: If the husband turns an apostate a Muslim woman cannot stay with him as his wife according to the injunction of the Holy Qur'an:

"They (the Muslim women) are not lawful for the disbelievers." (60 : 10)

And the marriage automatically gets annulled; but if the woman turns apostate she can remain as wife of a Muslim if she becomes a convert to Christianity or Judaism, but if she turns into an idolatress, a separation must take place.

b) *Lack of consent*: When a man gives his daughter in marriage and she dislikes it, the marriage shall be repudiated (*Bukhari*) for no marriage is valid without the consent of the woman.

c) *Marriage of a Minor*: If the guardian gives his ward in marriage, she has the right to confirm or repudiate the marriage on attaining puberty.



## ILA', ZIHAR AND TAHLIL

*Ila'*: *Ila'* is a temporary separation from wives. In literal sense it signifies a vow, but in the Islamic *Shari'ah* this means angrily abstaining from sexual connection with one's wife for four months. If a man swears that he will not have any sexual connection with his wife or that he will not have any such connection with her within four months, an *Ila'* is established. (*Hidaya*)

*Ila'* was a practice of the pre-Islamic days by which the wife was kept in a state of suspense, sometimes for the whole of her life. In the pre-Islamic days the 'Arabs used to take such oaths frequently, and as the period of suspension was not limited, the wife had sometimes to pass her whole life in bondage, having neither the position of a wife nor that of a divorced woman free to marry elsewhere. Islam reformed this state of affairs by commanding that if the husband did not reassert conjugal relations within four months, the wife should be divorced. The Holy Qur'an says:

"Those who forswear their wives must wait four months; then if they change their mind, lo! Allah is Forgiving, Merciful. And if they decide upon divorce (let them remember that) Allah is Hearer, Knower." (2 : 226 : 227)

If anyone swore or said to his wife that by Allah he will not have sexual intercourse, or by Allah he will never do sexual intercourse with her or something else in this respect, then its order is that if he actually did not have sexual intercourse then at the end of four months it will have the effect of divorce and now they cannot live as husband and wife without re-marriage. But if before the expiry of four months he breaks his oath and did sexual intercourse, then there will be no divorce but he shall have to give recompensation for breach of oath. According to Islamic *Shari'ah* such oath is called *Ila'*.

Although it is true that relations between husband and wife do not always remain cordial, yet Allah's law does not allow that the strained relations should continue indefinitely. Therefore it lays down the maximum period of four months for a separation in which they legally remain husband and wife but practically live separate lives without any conjugal relations between them. Such a separation is called *Ila'* in the Islamic *Shari'ah*. During this period they must either make a reconciliation between themselves or part for goods, so that they may be free to marry a suitable person of their liking.

From the words "Those who take an oath. . . ." the jurists belonging to the Hanafi and Shafi'i Schools of Thought conclude that this period of four months applies only to those cases of separation which are made on oath; if they remain separate for any length of time without an oath, this law would not apply to them. On the other hand, the jurists belonging to the Maliki School of Thought are of the opinion that the maximum period of four months applies to all cases of separation. A saying of Imam Ahmad also supports this opinion.

Hadrat 'Ali, Ibn 'Abbas and Hasan Basri (Allah be pleased with them) are of the opinion that this law applies only to that case of separation which is the result of strained relations, and does not apply to the case in which the husband and the wife agree to discontinue conjugal relations with mutual consent for some common good and at the same time keep cordial relations. There are other jurists who are of the opinion that the law of *Ila'* would apply to every case of separation made on oath irrespective of the fact whether their relations remain good or bad; hence it should not go beyond the prescribed term of four months.

*Zihar*: *Zihar* is a form of imprecation which involves the separation of husband and wife until expiation is made.



According to the *Hidaya*, *Zihar* signifies the likening of a woman to a kinswoman within the prohibited degrees, which interpretation is found in the comparison being applied to any of the parts or members of the body improper to be seen. The usual formula is: *Anti 'alaiya ka-Zahri Ummi*, "Thou art unto me as the back of my mother."

This was technically called *Zihar*. No sooner were these words pronounced than the relation between husband and wife ended as by a divorce, but the woman was not at liberty to leave the husband's home, and remained as a deserted wife. Aus ibn Samit treated his wife Khaula bint Tha'laba in a similar manner. The wronged woman came to the Messenger of Allah (peace and blessings of Allah be upon him) and complained of her husband's ill-treatment. The Messenger of Allah (peace and blessings of Allah be upon him) told her that he was unable to interfere. She went back disappointed and it was then that the Messenger of Allah (peace and blessings of Allah be upon him) received the following revelation:

"Allah has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to Allah: And Allah (always) hears the arguments between both sides among you: for Allah hears and sees (all things). If any men among you divorce their wives by *Zihar* (calling them mothers), they cannot be their mothers. None can be their mothers except those who gave them birth. And in fact they use words (both) iniquitous and false." (58: 1, 2)

**Atonement for Zihar:** Before the advent of Islam, *Zihar* stood as a divorce, but Islam changed it to a temporary prohibition, for which expiation must be performed, viz., either freeing a slave, or two months' fast, or feeding sixty

persons. The Holy Qur'an says:

"But those who divorce their wives by *Zihar* then wish to go back on the words they uttered, (It is ordained that such a one) should free a slave before they touch each other: This are ye admonished to perform and Allah is well-acquainted with (all) that ye do. And if any has not (the wherewithal), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones. This, that ye may show your faith in Allah." (58: 3, 4)

The atonement for *Zihar* is the same as that of breach of fast and there is no difference.

If the man has capacity and strength he should keep fasts for sixty days continuously without any gap and should not have sexual intercourse with his wife before the end of sixty fasts. If he commits sexual intercourse during the fasts, he shall have to keep the sixty fasts afresh whether the intercourse was done during the day or night, intentionally or otherwise.

If started to keep fasts from the 1st date of a month, then he should complete two months. Some of the lunar months are short of thirty days, even then the recompensation would be met — that is the months may be either of 30 or 29 days each.

If one is not strong enough to keep sixty fasts continuously, then he should feed sixty poor people in the morning and evening with full meal or give foodgrain instead in the same quantity. If before completing the feeding of sixty poor people for two times, he committed sexual intercourse then it would be a sin, but recompensation will be accomplished and should not give again.

**Tahlil or Halalah:** *Tahlil* means legalising. It was a pre-Islamic custom which still prevails in some Muslim societies. It is illegal and does not find support in the Holy Qur'an and



According to the *Hidaya*, *Zihar* signifies the likening of a woman to a kinswoman within the prohibited degrees, which interpretation is found in the comparison being applied to any of the parts or members of the body improper to be seen. The usual formula is: *Anti 'alaiya ka-Zahri Ummi*, "Thou art unto me as the back of my mother."

This was technically called *Zihar*. No sooner were these words pronounced than the relation between husband and wife ended as by a divorce, but the woman was not at liberty to leave the husband's home, and remained as a deserted wife. Aus ibn Samit treated his wife Khaula bint Tha'laba in a similar manner. The wronged woman came to the Messenger of Allah (peace and blessings of Allah be upon him) and complained of her husband's ill-treatment. The Messenger of Allah (peace and blessings of Allah be upon him) told her that he was unable to interfere. She went back disappointed and it was then that the Messenger of Allah (peace and blessings of Allah be upon him) received the following revelation:

"Allah has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to Allah: And Allah (always) hears the arguments between both sides among you: for Allah hears and sees (all things). If any men among you divorce their wives by *Zihar* (calling them mothers), they cannot be their mothers. None can be their mothers except those who gave them birth. And in fact they use words (both) iniquitous and false." (58: 1, 2)

**Atonement for Zihar:** Before the advent of Islam, *Zihar* stood as a divorce, but Islam changed it to a temporary prohibition, for which expiation must be performed, viz., either freeing a slave, or two months' fast, or feeding sixty

persons. The Holy Qur'an says:

"But those who divorce their wives by *Zihar* then wish to go back on the words they uttered, (It is ordained that such a one) should free a slave before they touch each other: This are ye admonished to perform and Allah is well-acquainted with (all) that ye do. And if any has not (the wherewithal), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones. This, that ye may show your faith in Allah." (58: 3, 4)

The atonement for *Zihar* is the same as that of breach of fast and there is no difference.

If the man has capacity and strength he should keep fasts for sixty days continuously without any gap and should not have sexual intercourse with his wife before the end of sixty fasts. If he commits sexual intercourse during the fasts, he shall have to keep the sixty fasts afresh whether the intercourse was done during the day or night, intentionally or otherwise.

If started to keep fasts from the 1st date of a month, then he should complete two months. Some of the lunar months are short of thirty days, even then the recompensation would be met — that is the months may be either of 30 or 29 days each.

If one is not strong enough to keep sixty fasts continuously, then he should feed sixty poor people in the morning and evening with full meal or give foodgrain instead in the same quantity. If before completing the feeding of sixty poor people for two times, he committed sexual intercourse then it would be a sin, but recompensation will be accomplished and should not give again.

**Tahlil or Halalah:** *Tahlil* means legalising. It was a pre-Islamic custom which still prevails in some Muslim societies. It is illegal and does not find support in the Holy Qur'an and



Hadith. It is effected in this way. When the wife is divorced irrevocably and the husband wants her back, he enters into a contract with a third person for marrying her and divorcing her immediately after a sexual intercourse. The Holy Prophet (peace and blessings of Allah be upon him) cursed such contracting parties.

*Tahlil* is the final and most deterrent obstacle placed by Islam in the way of divorce. This means that a man who has given a final divorce to woman cannot remarry her until she has entered into marriage with a second man and that second man having enjoyed sexual intercourse with her has divorced her willingly. The Holy Qur'an says:

"And if he hath divorced her (the third time), then she is not lawful unto him thereafter until she hath wedded another husband. Then if he (the other husband) divorces her it is no sin for both of them that they come together again if they consider that they are able to observe the limits of Allah." (2 : 230)

So stiff is this condition that a man will think a hundred times before giving the third divorce to his wife and will desist from doing so until he has absolutely resolved that he will not live with that woman.

Authentic Traditions warn against any pre-arranged scheme that a certain man should marry a certain divorced woman with the understanding that he would divorce her again to enable the former husband to remarry his divorced wife. This shall be an unlawful act and such a marriage shall be no marriage at all but adultery and the woman shall not become the lawful wife of the first husband by such a pre-arranged scheme. Hadrat 'Ali, Ibn Mas'ud, Abu Huraira and 'Uqba bin 'Amir (Allah be pleased with them), all report the Tradition to the effect that the Messenger of Allah (peace and blessings of Allah be upon him) cursed all the persons who indulge in such devices. 'Abdullah bin Mas'ud (Allah

be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) cursed one who takes a divorced wife as lawful and one for whom she is taken as lawful. (*Darimi; Ibn Majah narrated from 'Ali, Ibn 'Abbas and Uqba bin 'Amir*)

Hadrat 'Umar (Allah be pleased with him) is reported to have said that if there were brought to him two men who took part in the practice of *halalah*, he would treat them as adulterous people.

The man who arranges the marriage of his divorced wife to another person in order to remarry her subsequently, and also the man who enters such a conspirational marriage, both have been condemned by the Messenger of Allah (peace and blessings of Allah be upon him). The latter has been likened by the Messenger of Allah (peace and blessings of Allah be upon him) to a mercenary ox.

\* \* \* \* \*



Hadith. It is effected in this way. When the wife is divorced irrevocably and the husband wants her back, he enters into a contract with a third person for marrying her and divorcing her immediately after a sexual intercourse. The Holy Prophet (peace and blessings of Allah be upon him) cursed such contracting parties.

*Tahlil* is the final and most deterrent obstacle placed by Islam in the way of divorce. This means that a man who has given a final divorce to woman cannot remarry her until she has entered into marriage with a second man and that second man having enjoyed sexual intercourse with her has divorced her willingly. The Holy Qur'an says:

"And if he hath divorced her (the third time), then she is not lawful unto him thereafter until she hath wedded another husband. Then if he (the other husband) divorces her it is no sin for both of them that they come together again if they consider that they are able to observe the limits of Allah." (2 : 230)

So stiff is this condition that a man will think a hundred times before giving the third divorce to his wife and will desist from doing so until he has absolutely resolved that he will not live with that woman.

Authentic Traditions warn against any pre-arranged scheme that a certain man should marry a certain divorced woman with the understanding that he would divorce her again to enable the former husband to remarry his divorced wife. This shall be an unlawful act and such a marriage shall be no marriage at all but adultery and the woman shall not become the lawful wife of the first husband by such a pre-arranged scheme. Hadrat 'Ali, Ibn Mas'ud, Abu Huraira and 'Uqba bin 'Amir (Allah be pleased with them), all report the Tradition to the effect that the Messenger of Allah (peace and blessings of Allah be upon him) cursed all the persons who indulge in such devices. 'Abdullah bin Mas'ud (Allah

be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) cursed one who takes a divorced wife as lawful and one for whom she is taken as lawful. (*Darimi; Ibn Majah narrated from 'Ali, Ibn 'Abbas and Uqba bin 'Amir*)

Hadrat 'Umar (Allah be pleased with him) is reported to have said that if there were brought to him two men who took part in the practice of *halalah*, he would treat them as adulterous people.

The man who arranges the marriage of his divorced wife to another person in order to remarry her subsequently, and also the man who enters such a conspiratorial marriage, both have been condemned by the Messenger of Allah (peace and blessings of Allah be upon him). The latter has been likened by the Messenger of Allah (peace and blessings of Allah be upon him) to a mercenary ox.

\*\*\*\*\*



## CHAPTER 17

### CHILDREN

**Kindness to Children:** Holy Prophet Muhammad (peace and blessings of Allah be upon him) was Mecry for the whole humanity. He was specially kind to children. This kindness was not confined to the children of his own family. It extended to all children, even to those belonging to Infidels. The manifestation of his tender feelings indeed embraced every child whoever he might be. Abu Dawud records that whenever the Messenger of Allah (peace and blessings of Allah be upon him) rode back from a journey, he would give lift to a child on the way and whenever he saw the children along a way, he would greet them with salutation. Books on *Seerat* have it that little girls of Medina ran out of their houses to welcome Holy Prophet Muhammad (peace and blessings of Allah be upon him) with joyous songs when he first entered the town. "Do you love me, you little girls?" he asked. "Yes, we do, O' Messenger of Allah!" was their reply. "So do I", said he in response.

**In his family:** The Messenger of Allah (peace and blessings of Allah be upon him) loved his children deeply and profoundly. When Ibrahim, his last issue, passed away at the tender age of one year and some months, his eyes became tearful. He himself led the funeral prayer for the infant. He was standing by the edge of the grave when the dead body

was being lowered. The grief-stricken father was asked about his state of tearful sorrow. He said: "Tears flow from the eyes, the heart is plunged in sorrow, but the tongue shall speak only that which does not displease Allah." (*Bukhari*)

While receiving his daughter, Hadrat Fatima (Allah be pleased with her), he used to rise from his seat, kiss her on the forehead, and make her sit in his own place. His grand-daughter, Hadrat Zainab (Allah be pleased with her), was three days old when he saw her. He took her in his arms and said out of his warm affection: "Zainab resembles Khadija!" His love for his grand-sons, Hadrat Hasan and Hadrat Husain (Allah be pleased with them) is proverbial. He used to carry them on his shoulders. When an onlooker once remarked: "What a ride is he having!", Holy Prophet Muhammad (peace and blessings of Allah be upon him) promptly said: "And how majestic is the rider!" (*Tirmidhi*)

Holy Prophet Muhammad (peace and blessings of Allah be upon him) showed utmost affection to Hadrat Husain (Allah be pleased with him). He often held him in his arms, kissed his mouth, and said: "I love him, O' Allah! And I love the man who loves him." At times he would say: "Husain is from me and I am from Husain. Whosoever loves Husain, Allah shall love him." (*Mishkat*). He often said: "Husain is mine and I am Husain's. May Allah love those who love him." (*Tirmidhi*)

An Arab chief was surprised to see Holy Prophet Muhammad (peace and blessings of Allah be upon him) kissing his grand-sons. The chief remarked that never had he kissed any of his ten children. Holy Prophet Muhammad (peace and blessings of Allah be upon him) remarked back: "One who has no pity for others is not himself pitied by Allah." He also said: "If Allah leaves your heart barren of love, I cannot help you." (*Bukhari*)



## CHAPTER 17

## CHILDREN

**Kindness to Children:** Holy Prophet Muhammad (peace and blessings of Allah be upon him) was Mecry for the whole humanity. He was specially kind to children. This kindness was not confined to the children of his own family. It extended to all children, even to those belonging to Infidels. The manifestation of his tender feelings indeed embraced every child whoever he might be. Abu Dawud records that whenever the Messenger of Allah (peace and blessings of Allah be upon him) rode back from a journey, he would give lift to a child on the way and whenever he saw the children along a way, he would greet them with salutation. Books on *Seerat* have it that little girls of Medina ran out of their houses to welcome Holy Prophet Muhammad (peace and blessings of Allah be upon him) with joyous songs when he first entered the town. "Do you love me, you little girls?" he asked. "Yes, we do, O' Messenger of Allah!" was their reply. "So do I", said he in response.

**In his family:** The Messenger of Allah (peace and blessings of Allah be upon him) loved his children deeply and profoundly. When Ibrahim, his last issue, passed away at the tender age of one year and some months, his eyes became tearful. He himself led the funeral prayer for the infant. He was standing by the edge of the grave when the dead body

was being lowered. The grief-stricken father was asked about his state of tearful sorrow. He said: "Tears flow from the eyes, the heart is plunged in sorrow, but the tongue shall speak only that which does not displease Allah." (Bukhari)

While receiving his daughter, Hadrat Fatima (Allah be pleased with her), he used to rise from his seat, kiss her on the forehead, and make her sit in his own place. His grand-daughter, Hadrat Zainab (Allah be pleased with her), was three days old when he saw her. He took her in his arms and said out of his warm affection: "Zainab resembles Khadija!" His love for his grand-sons, Hadrat Hasan and Hadrat Husain (Allah be pleased with them) is proverbial. He used to carry them on his shoulders. When an onlooker once remarked: "What a ride is he having!", Holy Prophet Muhammad (peace and blessings of Allah be upon him) promptly said: "And how majestic is the rider!" (Tirmidhi)

Holy Prophet Muhammad (peace and blessings of Allah be upon him) showed utmost affection to Hadrat Husain (Allah be pleased with him). He often held him in his arms, kissed his mouth, and said: "I love him, O' Allah! And I love the man who loves him." At times he would say: "Husain is from me and I am from Husain. Whosoever loves Husain, Allah shall love him." (Mishkat). He often said: "Husain is mine and I am Husain's. May Allah love those who love him." (Tirmidhi)

An Arab chief was surprised to see Holy Prophet Muhammad (peace and blessings of Allah be upon him) kissing his grand-sons. The chief remarked that never had he kissed any of his ten children. Holy Prophet Muhammad (peace and blessings of Allah be upon him) remarked back: "One who has no pity for others is not himself pitied by Allah." He also said: "If Allah leaves your heart barren of love, I cannot help you." (Bukhari)



**Outside the family:** Holy Prophet Muhammad (peace and blessings of Allah be upon him) was so considerate and thoughtful of the children that when an early fruit of the season was presented to him, he would invariably offer it to the youngest of the party. (*Tibrani*)

Besides his own affection, expression of love between the mother and her children deeply touched Holy Prophet Muhammad (peace and blessings of Allah be upon him). Once a poor woman with her two little daughters came to Hadrat 'A'isha (Allah be pleased with her). Hadrat 'A'isha (Allah be pleased with her) had nothing to offer them except a date that alone happened to be left over. The woman divided the date into two pieces and gave one each to the children. In the meantime, Holy Prophet Muhammad (peace and blessings of Allah be upon him) came in. Hadrat 'A'isha (Allah be pleased with her) narrated the story of the woman to him. He said: "A person who cherishes love for his children and does his duty to them, shall be saved from the fire of Hell." (*Bukhari*)

When Holy Prophet Muhammad (peace and blessings of Allah be upon him) intended to pray longer in congregation but he heard a child crying, he would cut the Prayer short because he was mindful of the pain the child's crying might be causing to the mother. (*Bukhari*)

**To Infidels:** The affection of the Messenger of Allah (peace and blessings of Allah be upon him) was not confined to Muslim children only. It was meant for all and he was therefore, equally kind to the children of the Infidels. He caressed and kissed little children in general.

In one of the encounters, a few children were somehow killed in a melee. When the Messenger of Allah (peace and blessings of Allah be upon him) came to know of the mishap, he was deeply grieved. At this, the Companions (Allah be

pleased with them) remarked: "They were the children of the Unbelievers." The Messenger of Allah (peace and blessings of Allah be upon him) replied promptly: "The children of the Unbelievers are better than you grown-ups. Every living creature is born with a righteous nature." (*Musnad Ibn Hanbal*)

Hadrat Jabir (Allah be pleased with him), in his childhood, joined a prayer led by the Messenger of Allah (peace and blessings of Allah be upon him) whom he followed as he walked homeward after the prayer. On the way he was joined by a few other children. The Messenger of Allah (peace and blessings of Allah be upon him) caressed all of them, in addition to Jabir himself. (*Muslim*)

Kindness to children was not merely a personal matter for the Holy Prophet Muhammad (peace and blessings of Allah be upon him). He made it a part of the conduct of Islamic society as a whole. He is reported to have said:

"He is not from us who did not show tenderness to the young ones and respect to the elders." (*Tirmidhi, and Abu Dawud*)

**Treatment of Adopted and Unlawful Children in Islam:** There are people in every society who are either bereft of children or have never had them at all. Such unfortunate persons often feel dejection and despondence in their life for want of a successor to their property after their death. Even the tender ripples of joy of seeing a child playing before their eyes, in the crib, in the bed or in the courtyard of the houses, some time crying, some time smiling towards them, is unknown to these people.

In order to satisfy the craving of their hearts' desire, they borrow another man's child to adopt him as their own. In that case the child loses the name or relationship of his real father and his family. Henceforth the adopted child



becomes attached to his new father (pseudo-pater) and his family, in whose filial bondage the child remains for the rest of his life and becomes heir after their death.

This was the usual practice among the nobles of Arabia before the dawn of Islam. Today also this custom is prevalent in some societies of the world. Islam is opposed to this practice. The Holy Qur'an prohibits adoption of children, thus:

"... Nor has He made your adopted sons your sons. Such is (only) your (manner of) speech by your mouths. But Allah tells (you) the Truth, and He shows the (right) Way. Call them by (the names of) their father; that is juster in the sight of Allah. ..." (33 : 4-5)

Since the revelation of these Verses, it has been prohibited in Islam to attribute one's parenthood to someone other than the real ones. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) has said:

"Whoever declares his father to be one other than the real parents, although knowing that person is not his father, Paradise becomes *haram* (prohibited) to him." (Bukhari, Muslim and Abu Dawud)

There are other sayings also on the subject in which this practice is declared as severe sin by the Messenger of Allah (peace and blessings of Allah be upon him).

The first impact of the above cited Qur'anic injunction fell upon the status of Hadrat Zaid, son of Harith (Allah be pleased with him), who had been adopted as son by the Holy Prophet Muhammad (peace and blessings of Allah be upon him). Prior to this revelation Hadrat Zaid (Allah be pleased with him) was called as Hadrat Zaid bin Muhammad (peace and blessings of Allah be upon him) but thereafter the name of his real father, Harith, was suffixed to his name and he was called Zaid bin Harith. (Bukhari and Muslim)

In short, there is no place for adoption of children in Muslim society. Islam does not recognise adoption.

By 'Unlawful children' is meant children born out of adultery or fornication. Islam provides for the severest punishment for the adulterer and the adulteress, but it protects and absolves the child born to them, from any punishment or ignominy on that account.

Islam does not, in any way, degrade an unlawful child in the society nor does it discriminate against his rights, privileges and status. On the other hand, it gives him equal treatment.

A similar protection is granted by Islam to an 'abandoned' child. Bringing up an abandoned child is a duty of the Muslim society as a whole from the humanitarian and social points of views. Hadrat 'Umar (Allah be pleased with him) had made a law making the government responsible for the up-bringing and care of illegitimate children. The expenses of their education and bringing up were met from public treasury so that the innocent children did not suffer on account of the sin of their parents.

It is also undesirable to call an unlawful or abandoned child by the epithet 'bastard'. Such expressions will injure his feelings. Ibn Hazm, a renowned Muslim Jurist of the 5th century A. H., writes :

"Evidence given by an unlawful child is acceptable in matters of adultery. He can also be appointed as Qadi (judge). He is like other Muslims. ... There is no verse in the Holy Qur'an differentiating him from other Muslims." (Imam Abu Hanifa, Imam Shafi'i and others).

The following instructive incident on the matter has



been narrated in Mishkat, Kitabul Hudud :

"A woman, belonging to Ghamid Juhainiya tribe, appeared before the Holy Prophet Muhammad (peace and blessings of Allah be upon him) and confessed four times that she had committed adultery and conceived illegitimately. Hence she pleaded guilty and solicited punishment in expiation for her sin. In reply to her first confession, the Holy Prophet Muhammad (peace and blessings of Allah be upon him) told her to go away and beg repentance from Allah. She, however, insisted for punishment and atonement. Then the Holy Prophet Muhammad (peace and blessings of Allah be upon him) asked her to come after delivery, which she did. This time she brought the infant in her arms. The Holy Prophet Muhammad (peace and blessings of Allah be upon him) directed her to come after the suckling period of the child was over. The woman in conformity with the wishes of the Holy Prophet Muhammad (peace and blessings of Allah be upon him) appeared again with her son in her arms. This time she had a piece of bread also in proof that the child had started eating, emphasising thereby the urgency of punishment to her. Thereupon the Holy Prophet Muhammad (peace and blessings of Allah be upon him) advised her to hand over the child to someone to bring him up and ordered stoning of the adulteress."

Thus Islam provides for punishment to the adulterer and the adulteress but protects the child born to them, from chatisement, insinuation and invectives of the people. It provides such children with the same rights, privileges and protection as enjoyed by other Muslim citizens of the State.

**Upbringing of Children:** Imparting proper education to children has been the foremost responsibility of every parents in all ages. Children represent the future of humanity. Nourishment of their body and soul on healthy lines today will guarantee a happy and prosperous society of tomorrow. Their character, traits and disposition, likings and dislikings,

habits and idiosyncrasies easily reflect upon the nature of the world they may build when they are grown up.

The mind and heart of a child are very receptive to the impressions of the conditions of life and circumstances surrounding them. These imprints last in their memory for the whole of their life-time and the conclusions that they draw in their mind determine the nature of their character. They are like raw material which can be moulded in any desirable form and shape. That is why special care is needed to inculcate good habits and sterling qualities in them so that they prove a blessing to the parents as well as to the Society.

Nowadays most of the people are devoting their time and energy towards accumulation of wealth and other material benefits. They have no spare time to pay attention to spiritual values. They forget that the basis of humanity lies in recognition, maintenance and development of human relations. Man does not like to live in isolation; he is a social being and fond of society. He is, by nature, inclined to cultivate good social habits in order to live and flourish in peace. Mere pursuit of wealth at the cost of human relations indicates wrong mental attitude, which needs a change.

Experience stands witness that the poorer and less resourceful class of people pay more respect to their parents and other elderly persons and express more sympathy, love and sincerity to their relatives, friends, neighbours, as compared to the affluent ones. Accumulation of wealth becomes a curse if human relations are thereby ignored. To such persons family life is full of strife, turmoil and discord. Their children are usually shorn of manners and culture. They become wayward, un-manageable and wild in temperament bringing calumny and bad name to the parents.

Poverty indeed breeds many evils. In most of the backward countries where poverty is universally rampant,



parents are impelled to send their minor children to work in factories to earn nominal wages. They work hard far beyond the scheduled factory hours, spoiling their health for the sake of a little extra money. The age which needed liberty and time to play, so essential for their physical growth, is passed, out of compulsion, in the polluted environment of factories the ill-effect of which is worst on children of tender age.

Islam does not approve of this sort of individual and social behaviour. It lays strong emphasis upon character-building of children. Contentment is one of the sterling qualities in man which Islam teaches in order to check the unbridled instinct of greed. Islam does not preclude man from striving in life. By striving hard he gives his wife and children protection from hunger, ignorance and disease. The Holy Qur'an says:

"That man can have nothing but what he strives for."

"That (the fruit of) of his striving will soon come in sight." (53 : 39-40)

To throw children to the rigour of industrial labour for fear of starvation is like administering slow poison to them. It brings to mind the Qur'anic verse:

"Kill not your children for fear of want: We shall provide sustenance for them as well as for you. . ." (71:31)

Islam lays emphasis on proper bringing up of children. A child, if not given proper education, might turn into an atheist, or a pagan, a polytheist, or an idolater.

The Holy Prophet Muhammad (peace and blessings of Allah be upon him) is reported to have said:

"A child is born as a Muslim; it is the parents who afterwards make him a Christian, a Jew or an Infidel." (Bukhari).

It is a human virtue to aspire for bringing up the families in righteousness. In the Holy Qur'an a Muslim is, therefore, enjoined to pray as:

"... Our Lord: Grant unto us wives and offspring who will be the comfort of our eyes and give us (the grace) to lead the righteous." (25:74)

"... and be gracious to me in my issue . . ." (46:15)

\* \* \* \* \*



### TRADITIONS REGARDING MARRIAGE

#### One Who can Support a Wife should Marry :

1. 'Abdullah bin Mas'ud (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to us: O' young men, those among you who can support a wife should marry, for it restrains eyes (from casting evil glances) and preserves one from immorality; but he who cannot afford it should observe fast, for it is a means of controlling the sexual instinct. (Muslim)
2. Anas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said : When a man enters into matrimonial contract, he has indeed made his religion half perfect. Then let him fear Allah for the remaining half. (Baihaqi)
3. Anas (Allah be pleased with him) reported that some of the companions of Allah's Messenger (peace and blessings of Allah be upon him) asked his (the Prophet's) wives about the acts that he performed in private. Someone among them (among his companions) said: I will not marry women; someone among them said: I will not eat meat; and someone among them said: I will not lie down in bed. He (the Holy Prophet) praised Allah and glorified Him, and said: What

has happened to these people that they say so and so, whereas I observe prayer and sleep too; I observe fast and suspend observing them; I marry women also? And he who turns away from my *Sunnah*, he has no relation with me. (Muslim)

#### Things to be Sought in Marriage :

1. M'aqal bin Yasar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Marry such women as are of loving nature, and very prolific and verily I shall outnumber the peoples by you. (Nasa'i)
2. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: A woman may be married for four of the qualities: for her wealth, for her rank (and nobility of her family), for her grace, and for her character; so attain success with one possessing nobility of character. May his hands be besmeared with dust. (Bukhari)

#### Prohibited Degree of Marriage:

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) ordained: One should not combine in marriage a woman and her paternal aunt or a woman and her maternal aunt. (Bukhari and Muslim)

#### Fosterage :

'A'isha (Allah be pleased with her) reported Allah's Messenger (peace and blessings of Allah be upon him) as saying: Fosterage makes unlawful what consanguinity makes unlawful. (Muslim)



### Prohibition of Marrying the Step Daughter and the Wife's Sister :

Umm Habiba, the wife of Allah's Messenger (peace and blessings of Allah be upon him), reported that she said to Allah's Messenger (peace and blessings of Allah be upon him): Messenger of Allah, marry my sister 'Azza, whereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Do you like it? She said: Yes, Allah's Messenger; I am not the exclusive wife of yours, and I wish that the person who joins me in good should be my sister. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: That is not lawful for me. I said: Messenger of Allah, we discussed that you intend to marry Durrah bint Abu Salama. He (the Holy Prophet) said: You mean the daughter of Abu Salama? She said: Yes, whereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Even if she were not the step-daughter of mine, brought up under my guardianship, she would not have been lawful for me, for she is the daughter of my foster-brother. Thuwaiba gave me suck and to Abu Salama (also), so do not offer to me your daughters and sisters. (*Muslim*)

### Prohibition of Making a Proposal when it has already been made:

Ibn 'Umar (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as having said this: A person should not enter into a transaction when his brother (had already entered into but not finalised), and he should not make proposal of marriage upon the proposal already made by his brother, until he permits it. (*Muslim*)

### Sight of Bride and Bridegroom:

1. Mughira (Allah be pleased with him) reported that he made a proposal of marriage to a woman and the Messenger of Allah (peace and blessings of Allah be upon him) said :

Cast a glance at her because it is more likely to bring about cementing love between you. (*Tirmidhi*)

2. Abu Huraira (Allah be pleased with him) reported: I was in the company of Allah's Messenger (peace and blessings of Allah be upon him) when there came a man and informed him that he had contracted to marry a woman of the Ansar. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Did you cast a glance at her? He said: No. He (the Holy Prophet) said: Go and cast a glance at her, for there is something in the eyes of the Ansar. (*Muslim*)

### Consent in Marriage:

Ibn 'Abbas (Allah be pleased with him) reported that a virgin grown-up girl came to the Messenger of Allah (peace and blessings of Allah be upon him) and submitted that her father had given her in marriage contrary to her liking. The Messenger of Allah (peace and blessings of Allah be upon him) gave her option. (*Abu Dawud*)

Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said : A widow shall not be married until she is consulted, and a virgin shall not be married until her consent is obtained. They said: O' Messenger of Allah! How shall her approval be obtained? He replied: Her silence (implied consent). (*Bukhari*)

### Marriage Guardian:

1. Abu Musa (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: No marriage is (lawful) except through guardians. (*Ibn Majah*)

2. 'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whoso female gets herself married without permission of her guardian, her marriage is void, her marriage is void, her marriage is void. If he had intercourse with her,



there is dower for her on account of her private parts having been made lawful. If they dispute, then the king is the guardian for those who have got no guardian. (*Ahmad, Abu Dawud, Tirmidhi and Ibn Majah*)

3. Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whoso of slaves gets married without permission of his master, he is a fornicator. (*Tirmidhi, Abu Dawud, and Darimi*)

#### Marriage Witnesses :

Ibn 'Abbas (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Those (women) who marry by themselves without witnesses, are fornicatrices. (*Tirmidhi*)

#### Dower :

1. 'Uqba ibn 'Amir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The most equitable of the conditions (of marriage) is that you must fulfil that with which you have made private parts lawful. (*Agreed upon*)
2. Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Whosoever gives two handful of barley or dates as dower to his wife, has rendered (private parts) lawful. (*Abu Dawud*)
3. Sahl bin Sa'd al-Sa'idi (Allah be pleased with him) reported: A woman came to Allah's Messenger (peace and blessings of Allah be upon him) and said: Messenger of Allah, I have come to you to entrust myself to you (you may contract my marriage with anyone at your discretion). Allah's Messenger (peace and blessings of Allah be upon him) saw her and cast a glance at her from head to foot. Allah's Messenger (peace and blessings of Allah be upon

him) then lowered his head. When the woman saw that he had made no decision in regard to her, she sat down. There stood a person from amongst his companions and said: Messenger of Allah, marry her to me if you have no need of her. He (the Holy Prophet) said: Is there anything with you (which you can give as a dower)? He said: Messenger of Allah, by Allah I have nothing. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: Go to your people (family) and see if you can find something. He returned and said: I have found nothing. The Messenger of Allah (peace and blessings of Allah be upon him) said: See even if it is an iron ring. He went and returned and said: No, by Allah, not even an iron ring, but only this lower garment of mine (Sahl said that he had no upper garment), half of which (I am prepared to part with) for her. Thereupon Allah's Messenger (peace and blessings of Allah be upon him) said: How can your lower garment serve your purpose, for if you wear it, she should not be able to make any use of it and if she wears it there would not be anything on you? The man sat down and as the sitting prolonged he stood up (in disappointment) and as he was going back Allah's Messenger (peace and blessings of Allah be upon him) commanded him to be called back, and as he came, he said to him: Do you know any part of the Qur'an? He said: I know such and such *Suras* (and he counted them), whereupon he said: Can you recite them from heart (from your memory)? He said: Yes, whereupon he (Allah's Messenger) said: Go, I have given her to you in marriage for the part of the Qur'an which you know. (*Muslim*)

4. Abu Salama bin 'Abd al-Rahman reported: I asked 'A'isha, the wife of Allah's Messenger (peace and blessings of Allah be upon him): What is the amount of dower of Allah's Messenger (peace and blessings of Allah be upon him)? She said: It was twelve *Uqiyas* and one *nash*. She said: Do you know what is *al-nash*? I said: No. She said: It is half of *Uqiya* and it amounts to five hundred dirhams, and that was the dower given by Allah's Messenger (peace and blessings of Allah be upon him) to his wives. (*Muslim*)



5. Anas bin Malik (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) saw the trace of yellowness on 'Abd al-Rahman bin 'Auf and said: What is this? Thereupon he said: Allah's Messenger, I have married a woman for a date-stone's weight of gold. He said: God bless you! Hold a wedding feast, even if only with a sheep. (*Muslim*)

#### Marriage Sermon:

1. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Every wedding without the recitation of *Tashahhud* (in the Sermon) is like a hand cut off. (*Tirmidhi*)

2. 'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) used to have turns of companionship among his wives and do justice. He used to say: O' Allah! This is my division in what I can control. So do not take me to task about what you can control but I cannot control. (*Ibn Majah*)

#### Marriage Feast:

1. Anas ibn Malik (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) saw a sign of yellow colour on 'Abdur Rahman ibn 'Auf (Allah be pleased with him). He asked him about it. He replied: I have married a woman for a weight of gold equal to date-stone. The Messenger of Allah (peace and blessings of Allah be upon him) remarked: May Allah bless you! Hold a wedding feast, even though with a goat. (*Muslim*)

2. Ibn 'Umar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: When anyone of you is invited to a marriage feast, he must attend it. (*Muslim*)

#### Proclamation of Marriage:

'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon

him) said: Make this marriage publicly known and solemnise it in the mosque and beat daffs (a kind of drum) on this occasion. (*Tirmidhi*)

#### Option of Puberty:

1. Ibn 'Abbas (Allah be pleased with him) reported that a virgin grown-up girl came to the Messenger of Allah (peace and blessings of Allah be upon him) and narrated that her father had given her in marriage, which was disliking to her. The Messenger of Allah (peace and blessings of Allah be upon him) gave her option. (*Abu Dawud*)

2. Khansa' bin Khezam reported that her father gave her in marriage while she was a woman having consummation. She disliked it, and so she came to the Messenger of Allah (peace and blessings of Allah be upon him). He annulled her marriage.

And in a narration of *Ibn Majah*: Marriage of her father. (*Bukhari*)

#### Excellence of Marrying a Virgin:

Jabir bin 'Abdullah (Allah be pleased with him) reported: I married a woman during the lifetime of Allah's Messenger (peace and blessings of Allah be upon him). I met the Messenger of Allah (peace and blessings of Allah be upon him), whereupon he said: Jabir, have you married? I said: Yes. He said: A virgin or one previously married? I said: With one previously married, whereupon he said: Why did you not marry a virgin with whom you sport? I said: Allah's Messenger, I have sisters; I was afraid that she might intervene between me and them, whereupon he said: Well and good, if it is so. A woman is married for four reasons, for her religion, her property, her status, her beauty, so you should choose one with religion. May your hands cleave to dust. (*Muslim*)



**Pious Woman:**

'Abdullah ibn 'Umar (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as having said: The whole world is the provisions and the best object of benefit of the world is a pious woman. (*Muslim*)

**Advice in Regard to Women:**

Abu Huraira (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as saying: A believing man should not hate a believing woman; if he dislikes one of his characteristics, he will be pleased with another. (*Muslim*)

**Purdah:**

1. Abu Sa'id (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: No man shall look to the private parts of a man, and no woman to the private parts of a woman, nor a man shall be with another man underneath the same cloth, nor a woman with a woman underneath the same cloth. (*Muslim*)
2. Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Behold! a man must not pass a night near a married woman who had consummation, except his being a husband, or one within the prohibited degrees. (*Muslim*)
3. Jabir bin 'Abdullah (Allah be pleased with him) reported: I asked the Messenger of Allah (peace and blessings of Allah be upon him) about glance at a strange woman. He ordered me to turn away my glance. (*Muslim*)
4. Buraida (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to 'Ali (Allah be pleased with him): O' 'Ali! don't

allow your glance to follow a glance, because the first (glance) is for you, and the other is not for you. (*Ahmad, Tirmidhi and Abu Dawud*)

5. Umm Salama (Allah be pleased with her) reported that she and Maimuna (Allah be pleased with her) were near the Messenger of Allah (peace and blessings of Allah be upon him) when the son of Umm Maktum came and went to him. I asked: O' Messenger of Allah, is he not a blind man who does not see us? The Messenger of Allah (peace and blessings of Allah be upon him) said: Are you blind, and do you not see him. (*Ahmad, Tirmidhi and Abu Dawud*)

6. Jabir (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Don't visit women whose husbands are absent, because the devil runs through you like the running of blood. We asked: Through you too, O' Messenger of Allah? He said: And through me too, but Allah helped me over him and he submitted. (*Tirmidhi*)

7. Abu Umama (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: There is no Muslim who casts a first glance at the charms of a woman and then shuts up his eye-sight but Allah creates anew for him one divine service in which he finds relish. (*Ahmad*)

**Chastity:**

1. Bahaz bin Hakim (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Protect your private parts except from your wife or what your right hand possesses. I asked: O' Messenger of Allah! inform me in case a man is alone. He (the Holy Prophet) said: Allah is then more to be ashamed of.



2. 'Umar (Allah be pleased with him) reported from the Messenger of Allah (peace and blessings of Allah be upon him) who said: A man shall never keep alone with a woman except that the third between them is the devil. (*Tirmidhi*)

#### Prohibition of Divulging the Secrets of the Woman :

Abu Sa'id al-Khudri (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) said: The most wicked among the people in the sight of Allah on the Day of Judgment is the man who goes to his wife and she comes to him, and then he divulges her secrets. (*Muslim*)

#### Temporary Marriage :

1. 'Ali (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) on the Day of Khaibar forbade for ever the contracting of temporary marriage with women and the eating of flesh of domestic asses. (*Muslim*)
2. Rabi' bin Sabra (Allah be pleased with him) reported on the authority of his father that Allah's Messenger (peace and blessings of Allah be upon him) prohibited the contracting of temporary marriage. (*Muslim*)

#### Prohibition of Contracting Shighar Marriage :

Ibn 'Umar (Allah be pleased with him) said that Allah's Messenger (peace and blessings of Allah be upon him) prohibited *Shighar* which means that a man gives his daughter in marriage on the condition that the other gives his daughter to him in marriage without any dower being paid by either. (*Muslim*)

#### Marriage with a Divorced Wife :

'A'isha (Allah be pleased with her) reported: A person divorced his wife by three pronouncements; then another

person married her and he also divorced her without having sexual intercourse with her. Then the first husband of her intended to remarry her. It was about such a case that Allah's Messenger (peace and blessings of Allah be upon him) was asked, whereupon he said: No, until the second one has tasted her sweetness as the first one had tasted. (*Muslim*)

#### Sexual Intercourse :

1. Jabir (Allah be pleased with him) heard Allah's Messenger (peace and blessings of Allah be upon him) say: When a woman fascinates any one of you and she captivates his heart, he should go to his wife and have an intercourse with her, for it would repel what he feels. (*Muslim*)
2. Jabir bin 'Abdullah (Allah be pleased with him) reported that the Jews used to say that when one comes to one's wife through the vagina, but being on her back, and she becomes pregnant, the child has a squint. So the verse came down: "Your wives are your tilth; go then unto your tilth, as you may desire." (2:223) (*Muslim*)
3. Ibn 'Abbas (Allah be pleased with him) reported: It was revealed to the Messenger of Allah (peace and blessings of Allah be upon him): Your wives are your tilth, go then unto your tilth, as you may desire; come from front or back, and guard against the rectum and menstruation. (*Ibn Majah and Tirmidhi*)
4. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Cursed is he who goes unto his wife by her back. (*Ahmad and Abu Dawud*)

#### Supplication at the Time of Sexual Intercourse :

Ibn 'Abbas (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) said: If anyone amongst you intends to go to his wife he



should say: In the name of Allah, O' Allah, ward us against Satan and keep away the Satan from the one that you have bestowed upon us, and if He has ordained a male child for them, Satan will never be able to do harm to him. (*Muslim*)

#### Disapproval of Al-'Azl (Coitus Interruptus):

Abu Sa'id al-Khudri (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) was asked about 'azl, whereupon he said: The child does not come from all the liquid (semen) and when Allah intends to create anything nothing can prevent it (from coming into existence.) (*Muslim*)

#### Conjugal Rights of Husband:

1. Abu Huraira (Allah be pleased with him) reported that Allah's Messenger (peace and blessings of Allah be upon him) said: By him in Whose Hand is my life, when a man calls his wife to his bed, and she does not respond, the One Who is in the heaven is displeased with her until he (her husband) is pleased with her. (*Muslim*)

2. Abu Huraira (Allah be pleased with him) reported Allah's Messenger (peace and blessings of Allah be upon him) as saying: When a man invites his wife to his bed and she does not come, and he (the husband) spends the night being angry with her, the angels curse her until morning. (*Muslim*)

#### Divorce:

1. Ibn 'Umar (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: In the sight of Allah, the most detestable of all lawful things is divorce. (*Abu Dawud*)

2. Thauban (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon

him) said: The woman who asks her husband for divorce without any fault (or strong reason), the sweet fragrance of Paradise shall be forbidden to her. (*Ahmad*)

3. 'Abdullah ibn 'Umar (Allah be pleased with him) reported that he had divorced one of his wives during the period of menstruation. 'Umar (Allah be pleased with him) made mention of it to the Messenger of Allah (peace and blessings of Allah be upon him). He felt enraged, so he advised: Command him to take her back, then divorce her when she is pure or she is pregnant. (*Muslim*)

4. Ibn 'Abbas (Allah be pleased with him) reported that the wife of Thabit ibn Qais came to the Messenger of Allah (peace and blessings of Allah be upon him) and said: I do not criticise Thabit ibn Qais regarding his morals or faith but I detest (his infidelity) over Islam. The Messenger of Allah (peace and blessings of Allah be upon him) asked: Shall you return to him his orchard? She replied in the affirmative. So the Messenger of Allah (peace and blessings of Allah be upon him) said (to) Thabit: Take back the orchard and divorce her. (*Bukhari*)

5. 'A'isha (Allah be pleased with her) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: There is no divorce and no emancipation by force. (*Ibn Majah*)

6. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: Every divorce is lawful except by an insane or one who is mentally deranged. (*Tirmidhi*)

7. 'Abdullah ibn Mas'ud (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) cursed one who makes a divorced wife as lawful for her first husband and the one for whom she is made lawful. (*Darimi*)



8. Mu'adh ibn Jabal (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to him: O' Mu'adh! Allah created nothing on the face of the earth dearer to Him than emancipation (of slaves), and Allah created nothing on the face of earth more hateful to Him than divorce. (*Darqutni*)

9. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The woman who is disobedient and the woman who asks her husband for divorce, is a hypocrite. (*Ahmad*)

10. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: There are three matters, which whether undertaken seriously or in jest are treated as serious: marriage divorce and taking one's wife back (after divorce which is not final). (*Tirmidhi*)

11. Mahmud bin Labid (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) was informed about a man who had pronounced three divorces to his wife in one breath. Upon this he (the Holy Prophet) stood up angrily and said (to the people): "Has the Holy Book of Allah, the Most Powerful and the Glorious been made a plaything while I am among you?" Whereupon a man stood up and said: Messenger of Allah! May I not kill him? (*Nasa'i*)

#### Period of 'Idda (Waiting) :

Umm Habiba and Zainab, daughters of Jahsh (Allah be pleased with them) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: It is not lawful for any woman who believes in Allah and in the Day of Judgment, to mourn any dead person for more than three days, except that she may mourn her husband for four months and ten days. (*Agreed upon*)

\*\*\*\*\*

#### BIBLIOGRAPHY

- |                                  |  |
|----------------------------------|--|
| 'Abdullah Yousaf 'Ali            | — The Holy Qur'an<br>(English Translation)           |
| 'Abdul Rauf, Sheikh              | — Muslim Way of Life                                 |
| 'Abdur Rahim                     | — Muhammadan Jurisprudence                           |
| Abu'l Fazl                       | — Selections from Mishkat-ul-Masabih                 |
| 'Aziz Ahmad                      | — Islamic Law in Theory and Practice                 |
| B. 'A'isha Lemu<br>Fatima Heeren | — Woman in Islam                                     |
| Charles Hamilton                 | — The Hedaya (English Translation)                   |
| Faridi, F. R.                    | — Muslim Personal Law                                |
| Faruki, Kamal A.                 | — Islamic Jurisprudence                              |
| Fazal Karim, Maulana             | — Al-Hadis   |
| Fida Hussain                     | — Wives of the Prophet                               |
| Hammudah 'Abdul al-'Ali          | — The Family Structure in Islam                      |
| Hardinge Stanley Giffard         | — Science of Jurisprudence                           |
| Hasan 'Askari                    | — Society and State in Islam,<br>An Introduction     |
| Hitti, Philip K.                 | — History of the Arabs<br>— Islam, a Way of Life     |
| Ibn S. Jung                      | — The Muslim Law of Marriage                         |
| Khurshid Ahmed                   | — Family Life in Islam                               |
| Majid Khuduri                    | — Islamic Jurisprudence                              |
| Maududi, Abul A'la, Syed         | — The Meaning of the Qur'an<br>(English Translation) |
|                                  | — Furdah and the Status of Women in Islam            |
| Muhammad 'Abdul Rauf, Dr.        | — The Islamic View of Women and the Family           |
| Muhammad Hamidullah              | — The Muslim Conduct of State                        |



8. Mu'adh ibn Jabal (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said to him: O' Mu'adh! Allah created nothing on the face of the earth dearer to Him than emancipation (of slaves), and Allah created nothing on the face of earth more hateful to Him than divorce. (*Darqutni*)

9. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: The woman who is disobedient and the woman who asks her husband for divorce, is a hypocrite. (*Ahmad*)

10. Abu Huraira (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: There are three matters, which whether undertaken seriously or in jest are treated as serious: marriage divorce and taking one's wife back (after divorce which is not final). (*Tirmidhi*)

11. Mahmud bin Labid (Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) was informed about a man who had pronounced three divorces to his wife in one breath. Upon this he (the Holy Prophet) stood up angrily and said (to the people): "Has the Holy Book of Allah, the Most Powerful and the Glorious been made a plaything while I am among you?" Whereupon a man stood up and said: Messenger of Allah! May I not kill him? (*Nasa'i*)

#### Period of 'Idda (Waiting) :

Umm Habiba and Zainab, daughters of Jahsh (Allah be pleased with them) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said: It is not lawful for any woman who believes in Allah and in the Day of Judgment, to mourn any dead person for more than three days, except that she may mourn her husband for four months and ten days. (*Agreed upon*)

\*\*\*\*\*

#### BIBLIOGRAPHY

- |                                  |  |
|----------------------------------|--|
| 'Abdullah Yousaf 'Ali            | — The Holy Qur'an<br>(English Translation)           |
| 'Abdul Rauf, Sheikh              | — Muslim Way of Life                                 |
| 'Abdur Rahim                     | — Muhammadan Jurisprudence                           |
| Abu'l Fazl                       | — Selections from Mishkat-ul-Masabih                 |
| 'Aziz Ahmad                      | — Islamic Law in Theory and Practice                 |
| B. 'A'isha Lemu<br>Fatima Heeren | — Woman in Islam                                     |
| Charles Hamilton                 | — The Hedaya (English Translation)                   |
| Faridi, F. R.                    | — Muslim Personal Law                                |
| Faruki, Kamal A.                 | — Islamic Jurisprudence                              |
| Fazal Karim, Maulana             | — Al-Hadis   |
| Fida Hussain                     | — Wives of the Prophet                               |
| Hammudah 'Abdul al-'Ali          | — The Family Structure in Islam                      |
| Hardinge Stanley Giffard         | — Science of Jurisprudence                           |
| Hasan 'Askari                    | — Society and State in Islam,<br>An Introduction     |
| Hitti, Philip K.                 | — History of the Arabs<br>— Islam, a Way of Life     |
| Ibn S. Jung                      | — The Muslim Law of Marriage                         |
| Khurshid Ahmed                   | — Family Life in Islam                               |
| Majid Khuduri                    | — Islamic Jurisprudence                              |
| Maududi, Abul A'la, Syed         | — The Meaning of the Qur'an<br>(English Translation) |
|                                  | — Purdah and the Status of Women in Islam            |
| Muhammad 'Abdul Rauf, Dr.        | — The Islamic View of Women and the Family           |
| Muhammad Hamidullah              | — The Muslim Conduct of State                        |



- Muhammad Muhsin Khan, Dr. Sahih al-Bukhari (English Translation)
- Muhammad Muslehuddin, Dr. Morality, its Concept and Role in Islamic Order
- Mut'a (Temporary Marriage)
- Muhammad Qutb — Islam, the Misunderstood Religion
- Muhammad Rahimuddin, Prof. Muwatta' Imam Malik (English Translation)
- Muhammad Zafeer-ud-Din — *Islam ka Nizam-e-Iffat wa 'Ismat* (Urdu)
- Mulla — Mohammanadan Law
- Nicholson, R. A. — A Literary History of the Arabs
- Pickthall, Muhammad — The Glorious Qur'an (English Translation)
- Marmaduke
- Qureshi, M. H. — Islamic Jurisprudence
- Rashid Ahmad Khan, Mian — Islamic Jurisprudence
- Rizvi, Saeed Akhtar, Seyyid — Family Life of Islam
- Robson James — Mishkat al-Masabih (English Translation)
- Said Ramazan, Dr. — Islamic Law, its Scope and Equity
- Shad, 'Abdur Rahman — Dos and Do Nots in Islam
- Rights of Allah and Human Rights
- Shaukat Mahmood, Sh. — Principles and Digest of Muslim Law
- Siddiqi, 'Abdul Hameed — The Holy Qur'an (English Translation and Explanatory Notes)
- Mishkat al-Masabih (English Translation)
- Sahih Muslim (English Translation)

- Siddiqi, Muhammad Iqbal — The Penal Law of Islam
- Islam Forbids Free Mixing of Men and Women
- Siddiqi, Muhammad Mazheruddin — Women in Islam
- Suzanne Haneef — What Everyone should Know about Islam and Muslims
- Thanvi, Ashraf Ali, Maulana — Bahishti Zewar (Heavenly Ornaments)
- Thomas Patrick Hughes — A Dictionary of Islam
- Zain, Abu Zafar, Syed — The Prophet of Islam — The Ideal Husband

## JOURNALS

1. Al-Yaqeen International
2. The Islamic Literature
3. The Criterion



- Muhammad Muhsin Khan, Dr. Sahih al-Bukhari (English Translation)
- Muhammad Muslehuddin, Dr. Morality, its Concept and Role in Islamic Order
- Mut'a (Temporary Marriage)
- Muhammad Qutb — Islam, the Misunderstood Religion
- Muhammad Rahimuddin, Prof. Muwatta' Imam Malik (English Translation)
- Muhammad Zafeer-ud-Din — *Islam ka Nizam-e-Iffat wa 'Ismat* (Urdu)
- Mulla — Mohammadan Law
- Nicholson, R. A. — A Literary History of the Arabs
- Pickthall, Muhammad — The Glorious Qur'an (English Translation)
- Marmaduke
- Qureshi, M. H. — Islamic Jurisprudence
- Rashid Ahmad Khan, Mian — Islamic Jurisprudence
- Rizvi, Saeed Akhtar, Seyyid — Family Life of Islam
- Robson James — Mishkat al-Masabih (English Translation)
- Said Ramazan, Dr. — Islamic Law, its Scope and Equity
- Shad, 'Abdur Rahman — Dos and Do Nots in Islam
- Rights of Allah and Human Rights
- Shaukat Mahmood, Sh. — Principles and Digest of Muslim Law
- Siddiqi, 'Abdul Hameed — The Holy Qur'an (English Translation and Explanatory Notes)
- Mishkat al-Masabih (English Translation)
- Sahih Muslim (English Translation)

- Siddiqi, Muhammad Iqbal — The Penal Law of Islam
- Islam Forbids Free Mixing of Men and Women
- Siddiqi, Muhammad Mazheruddin — Women in Islam
- Suzanne Haneef — What Everyone should Know about Islam and Muslims
- Thanvi, Ashraf Ali, Maulana — Bahishti Zewar (Heavenly Ornaments)
- Thomas Patrick Hughes — A Dictionary of Islam
- Zain, Abu Zafar, Syed — The Prophet of Islam — The Ideal Husband

## JOURNALS

1. Al-Yaqeen International
2. The Islamic Literature
3. The Criterion



## INDEX

- 'Abdullah, 149  
 'Abdullah bin Abi Aufa, 95  
 'Abdullah bin 'Amr, 100, 117  
 'Abdullah bin Jahash, 83  
 'Abdullah ibn Jarir Tabari, 159  
 'Abdullah bin Mas'ud, 58, 81, 165, 194, 195, 254, 267  
 'Abdullah bin Qais, 163  
 'Abdullah bin al-Tufail, 142  
 'Abdullah bin 'Umar, 92, 100, 200, 222, 262, 267  
 'Abdullah bin Zubair, 170  
 'Abdur Rahman, 143  
 'Abdur Rahman bin 'Auf, 92, 260  
 Abu 'Abdullah al-Bukhari, 205  
 Abu Ayyub Ansari, 141  
 Abu Bakr, 111, 195, 203, 205, 210, 220  
 Abu Bakr al-Jassas, 'Allama, 140, 155, 159, 168  
 Abu Dawud, 60, 66, 70, 81, 83, 84, 98, 103, 111, 114, 122, 126, 128, 142, 161, 172, 173, 214, 232, 234, 244, 248, 257, 258, 261, 263, 265, 266  
 Abu Hanifa, Imam, 62, 63, 64, 67, 70, 81, 168, 226, 249  
 Abu Huraira, 59, 64, 66, 69, 94, 102, 103, 111, 115, 118, 120, 122, 127, 143, 168, 173, 242, 255, 257, 260, 262, 265, 266, 267, 268  
 Abu Jamra, 204  
 Abu Musa Ash'ari, 163, 164, 174, 220, 257  
 Abu Nadra, 205  
 Abu Na'eem, 100, 118  
 Abu Nasir, 201  
 Abu Sa'id, 121  
 Abu Sa'id al-Khudri, 99, 262, 264, 266  
 Abu Salama bin 'Abd al-Rahman, 83, 259  
 Abu 'Ubaida bin al-Jarrah, 150,  
 Abu Umama, 98, 126, 263  
 Abu Yusuf, Imam, 64  
 Abyssinia, 83  
 Adam, 3, 10, 16, 26, 54, 138, 157  
*Ahkam al-Qur'an*, 140, 141, 155, 159, 168  
 Ahmad, 67, 78, 83, 98, 103, 121, 126, 128, 129, 173, 258, 263, 265, 267, 268  
 Ahmad bin Hanbal, Imam, 62, 64, 67  
*Ahzab (Sura)*, 131, 156  
 'A'isha, 64, 69, 78, 83, 98, 106, 110, 120, 128, 133, 136, 142, 143, 154, 161, 162, 221, 234, 246, 255, 257, 259, 260, 264, 267  
 Albert Mole, 41  
 Alexandria, 11  
 'Ali, 64, 86, 126, 141, 199, 200, 202, 204, 207, 208, 209, 210, 217, 218, 220, 239, 242, 243, 262, 264  
 Alusi, 201  
 America, 181, 189  
 Ammianus Marcellinus, 193  
 'Amr bin 'As, 169  
 'Amr bin Huraith, 203, 205  
 Anas, 28, 92, 100, 118, 133, 154, 167, 254, 260  
 Anderosky, 6  
 Annie Besant, Dr., 185  
 Ansar, 66, 121, 127, 169, 226, 257  
 Anthony, St., 12  
 'Aqaba bin 'Amir, 169  
 'Aqil (son of Abu Talib), 217  
 Arabia, 14, 17, 81, 158, 183, 208  
 Arabs, 137, 138, 160, 193, 208, 238  
 Aryan, 187  
 Askenazi (Jews), 181  
 Asma' bint Abu Bakr, 142, 161  
 'Ata, 64, 154  
 'Ata al-Khurasani, 200



- 'Ata' bin Yasar, 165  
Austria, 183  
Autas, 201, 206, 208, 209  
Auza'i, 63, 154  
Ayaz, Qazi, 201, 209  
'Azza, 256
- Babylon, 183  
Badiab, 150  
Bahaz bin Hakim, 263  
Baida', 150  
Baidavi, Qazi, 160, 202  
Baihaqi, 19, 28, 97, 121, 203, 254  
*Bakhur* (Perfume), 173  
Banu 'Amir, 206, 207  
Banu Sulaim, 206  
*Baqara* (Sura), 31  
Bernard Shaw, 184  
Bernard, St., 12  
Bettany, 9  
Bhagvad Geeta, 8  
Bhandarkar, R. G., Sir, 8  
Bilal, 167  
Billy Graham, Dr., 185  
Bonaventure, St., 12  
Brahman, 182  
Buddhism, 8, 9  
Bukhari, 19, 28, 37, 70, 78, 92, 110, 111, 114, 119, 127, 129, 133, 134, 169, 202, 204, 233, 234, 245, 246, 248, 252, 255, 257, 261, 267  
Buraida, 126, 262
- Charlemagne, 181  
Chinese, 6  
Christian, 5, 9, 11, 12, 13, 19, 176, 177, 178, 181, 182, 183, 186, 212, 216, 252  
Christian Von Ehrenfels, Prof., 187  
Christianity, 9, 10, 16, 28, 177, 182, 185  
Church, 11, 12, 181
- Clement, St., 11  
Communist, 49  
Constantine (King), 182  
Cope, Dr., 186  
Corinthians, 10  
Cyprian, St., 12
- Daraqutni, 141, 222, 268  
Darimi, 258  
Dawud (Prophet), 25, 182  
Dunlop, Prof., 186  
Durrat bint Abu Salama, 256
- East, 192  
Eastern, 137  
Egypt, 183  
*Encyclopaedia Britannica*, 181  
England (Church of), 24  
Ephesians (Epistle to), 12, f.n. 13  
Europe, 23, 184, 189, 192  
Europeans, 103, 134, 187, 189  
Eve, 10, 11, 16, 138
- Fasting, 28  
*Fath al-Bari*, 162  
*Fath al-Qadir*, 167, 193  
Fatima, 82, 86, 161, 167  
Fatima (daughter of 'Utba bin Rabi'a), 217, 245  
Fida Hussain, 183  
Fischer, Dr., 40  
France, 186  
French, 182
- Genesis, 24  
Ghailan Thaqfi, 150  
Ghamid Juhainiya, 250  
*Ghara'ib al-Qur'an*, 159  
Gomorrah (People of), 24  
Greece, 183  
Greek, 6, 12, 103  
Gregory, St., 11  
Gregory Thaumaturgus, St., 11
- Habib bint Sehl, 234, 235

- Hafsa, 143  
Hakim bin Mu'awiya, 98, 110  
Hanafite, 154, 179  
Hasan, 245  
Hasan Basri, 63, 154, 178, 179, 239  
Hasan Ibrahim Hasan, 213  
Havelock Ellis, 40  
Hell, 246  
*Hidaya*, 61, 238, 240  
*Hilyah*, 100, 118  
Hindu, 5, 7, 8, 182, 212  
Hinduism, 7, 8  
Hindustan, 182  
Hunain, 134  
Husain, 245
- Ibn 'Abbas, 63, 70, 103, 134, 137, 151, 154, 158, 179, 199, 200, 202, 203, 204, 205, 206, 207, 208, 217, 220, 239, 243, 257, 258, 261, 265, 267  
Ibn Abi Shaiba, 222  
Ibn Abu 'Amrah al-Ansari, 207  
Ibn Hazm, 64, 249  
Ibn Jarir, 151, 155, 159, 160, 233, 234  
Ibn Juraij, 195  
Ibn Kathir, Hafiz, 148, 149, 166, 201, 202, 232  
Ibn Majah, 19, 67, 70, 78, 83, 95, 98, 99, 103, 134, 136, 140, 142, 178, 232, 257, 258, 260, 261, 265, 267  
Ibn Mas'ud, 64, 88, 154, 209, 220, 242  
Ibn Shihab, 207  
Ibn Taymiyya, 198  
Ibn 'Umar, 64, 67, 154, 214, 221, 222, 226, 260, 264, 266  
Ibn Zubair, 205  
Ibrahim (Prophet), 182  
Ibrahim (Son of Muhammad), 244  
Ibrahim Nakh'i, 154, 179, 217
- 'Id, 129  
'Idda, 66, 109, 197, 201, 220, 228, 268  
*Ihram*, 161, 162  
Ikrima, 63  
India, 7, 182, 187  
Indra, Prof., 8  
Iran, 183  
'Isha' (Night Prayer), 173  
Israel, 176, 177, 181  
Israelite, 177, 182  
Iyas bin Salama, 206
- Jabir bin 'Abdullah, 59, 66, 83, 103, 121, 127, 165, 195, 204, 205, 210, 247, 258, 261, 262, 263, 265  
Jafer al-Sadiq, 201, 203  
Jarir bin 'Abdullah, 126  
Jash, 92  
Jerome, St., 12  
Jesus Christ, 10, 12, 13, 177, 181, 184  
Jews, 176, 178, 181, 182, 252  
Jewish, 9, 13, 196, 212  
Jizya, 177  
John Chrysostom St., 11  
John Damascene, St., 12  
Judaism, 9, 177  
Justinian (the Roman Lawgiver), 182
- Ka'ba, 137  
Khadija, 106, 184, 245  
Khaibar, 200, 201, 202, 207, 208, 209, 264  
Khalid bin Muhajir bin Saifullah, 207  
Khansa'a bint Khizam, 70, 261  
Khaulat bint Tha'laba, 240  
Khazin, 199, 200  
Khurshid Ahmad 4, 183  
Kraft Ebing, Dr., 39, 40  
Kshatriya, 182  
Kufa, 205



- 'Ata' bin Yasar, 165  
Austria, 183  
Autas, 201, 206, 208, 209  
Auza'i, 63, 154  
Ayaz, Qazi, 201, 209  
'Azza, 256
- Babylon, 183  
Badiab, 150  
Bahaz bin Hakim, 263  
Baida', 150  
Baidavi, Qazi, 160, 202  
Baihaqi, 19, 28, 97, 121, 203, 254  
*Bakhur* (Perfume), 173  
Banu 'Amir, 206, 207  
Banu Sulaim, 206  
*Baqara* (Sura), 31  
Bernard Shaw, 184  
Bernard, St., 12  
Bettany, 9  
Bhagvad Geeta, 8  
Bhandarkar, R. G., Sir, 8  
Bilal, 167  
Billy Graham, Dr., 185  
Bonaventure, St., 12  
Brahman, 182  
Buddhism, 8, 9  
Bukhari, 19, 28, 37, 70, 78, 92, 110, 111, 114, 119, 127, 129, 133, 134, 169, 202, 204, 233, 234, 245, 246, 248, 252, 255, 257, 261, 267  
Buraida, 126, 262
- Charlemagne, 181  
Chinese, 6  
Christian, 5, 9, 11, 12, 13, 19, 176, 177, 178, 181, 182, 183, 186, 212, 216, 252  
Christian Von Ehrenfels, Prof., 187  
Christianity, 9, 10, 16, 28, 177, 182, 185  
Church, 11, 12, 181
- Clement, St., 11  
Communist, 49  
Constantine (King), 182  
Cope, Dr., 186  
Corinthians, 10  
Cyprian, St., 12
- Daraqutni, 141, 222, 268  
Darimi, 258  
Dawud (Prophet), 25, 182  
Dunlop, Prof., 186  
Durrah bint Abu Salama, 256
- East, 192  
Eastern, 137  
Egypt, 183  
*Encyclopaedia Britannica*, 181  
England (Church of), 24  
Ephesians (Epistle to), 12, f.n. 13  
Europe, 23, 184, 189, 192  
Europeans, 103, 134, 187, 189  
Eve, 10, 11, 16, 138
- Fasting, 28  
*Fath al-Bari*, 162  
*Fath al-Qadir*, 167, 193  
Fatima, 82, 86, 161, 167  
Fatima (daughter of 'Utba bin Rabi 'a), 217, 245  
Fida Hussain, 183  
Fischer, Dr., 40  
France, 186  
French, 182
- Genesis, 24  
Ghailan Thaqfi, 150  
Ghamid Juhainiya, 250  
*Ghara'ib al-Qur'an*, 159  
Gomorrah (People of), 24  
Greece, 183  
Greek, 6, 12, 103  
Gregory, St., 11  
Gregory Thaumaturgus, St., 11
- Habib bint Sehl, 234, 235

- Hafsa, 143  
Hakim bin Mu'awiya, 98, 110  
Hanafite, 154, 179  
Hasan, 245  
Hasan Basri, 63, 154, 178, 179, 239  
Hasan Ibrahim Hasan, 213  
Havelock Ellis, 40  
Hell, 246  
Hidaya, 61, 238, 240  
Hilyah, 100, 118  
Hindu, 5, 7, 8, 182, 212  
Hinduism, 7, 8  
Hindustan, 182  
Hunain, 134  
Husain, 245
- Ibn 'Abbas, 63, 70, 103, 134, 137, 151, 154, 158, 179, 199, 200, 202, 203, 204, 205, 206, 207, 208, 217, 220, 239, 243, 257, 258, 261, 265, 267  
Ibn Abi Shaiba, 222  
Ibn Abu 'Amrah al-Ansari, 207  
Ibn Hazm, 64, 249  
Ibn Jarir, 151, 155, 159, 160, 233, 234  
Ibn Juraij, 195  
Ibn Kathir, Hafiz, 148, 149, 166, 201, 202, 232  
Ibn Majah, 19, 67, 70, 78, 83, 95, 98, 99, 103, 134, 136, 140, 142, 178, 232, 257, 258, 260, 261, 265, 267  
Ibn Mas'ud, 64, 88, 154, 209, 220, 242  
Ibn Shihab, 207  
Ibn Taymiyya, 198  
Ibn 'Umar, 64, 67, 154, 214, 221, 222, 226, 260, 264, 266  
Ibn Zubair, 205  
Ibrahim (Prophet), 182  
Ibrahim (Son of Muhammad), 244  
Ibrahim Nakh'i, 154, 179, 217
- 'Id, 129  
'Idda, 66, 109, 197, 201, 220, 228, 268  
*Ihram*, 161, 162  
Ikrima, 63  
India, 7, 182, 187  
Indra, Prof., 8  
Iran, 183  
'Isha' (Night Prayer), 173  
Israel, 176, 177, 181  
Israelite, 177, 182  
Iyas bin Salama, 206
- Jabir bin 'Abdullah, 59, 66, 83, 103, 121, 127, 165, 195, 204, 205, 210, 247, 258, 261, 262, 263, 265  
Jafer al-Sadiq, 201, 203  
Jarir bin 'Abdullah, 126  
Jash, 92  
Jerome, St., 12  
Jesus Christ, 10, 12, 13, 177, 181, 184  
Jews, 176, 178, 181, 182, 252  
Jewish, 9, 13, 196, 212  
Jizya, 177  
John Chrysostom St., 11  
John Damascene, St., 12  
Judaism, 9, 177  
Justinian (the Roman Lawgiver), 182
- Ka'ba, 137  
Khadija, 106, 184, 245  
Khaibar, 200, 201, 202, 207, 208, 209, 264  
Khalid bin Muhajir bin Saifullah, 207  
Khansa'a bint Khizam, 70, 261  
Khaula bint Tha'laba, 240  
Khazin, 199, 200  
Khurshid Ahmad 4, 183  
Kraft Ebing, Dr., 39, 40  
Kshatriya, 182  
Kufa, 205



- Laith bin Sa'd. 64  
 Lapinsky, Prof., 40  
 Le Bon, Dr., 186  
 Lecky, W.E.H., 1, 2, 12, 13, 181  
 Luke, 10  
 Lut (the People of), 103
- al-Mabsut, 140, 141, 143  
 Macgregor, Colonel, 187  
 Macon (The Council of), 12  
 Magians, 177  
 Mahmud bin Labeed, 222, 268  
 Maimuna, 128, 263  
 Majus Hajar, 177  
*Majusiya*, 196  
 Makkah, 199, 201, 202, 206, 208, 209  
 Malik, Imam, 62, 63, 64, 67, 70, 81, 143, 161, 172, 234  
 Manu, 8, 182  
 Ma'qal bin Yasar, 60, 255  
 Maududi, Syed Abul A'la, Maulana, 183  
 McFarlane, J.E., 184  
 Medina, 127, 134, 149, 150, 244  
 Mishkat, 245, 249  
 Miswar bin Makhrama, 137, 155  
 Mormons, 181  
 Mu'adh bin Jabal, 95, 268  
*Mu'atta*, 143, 161, 172  
 Mu'awiya, 218  
 Mu'awwaz, 134  
 Mughira bin Shu'ba, 67, 127, 256  
 Muhammad (The Holy Prophet), 15, 17, 18, 19, 20, 25, 28, 29, 37, 51, 52, 58, 59, 60, 62, 63, 66, 67, 69, 70, 76, 78, 81, 82, 83, 84, 85, 86, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 106, 110, 111, 113, 114, 115, 117, 118, 119, 120, 121, 126, 127, 128, 129, 132, 133, 134, 136, 137, 140, 141, 143, 145, 149, 150, 157, 160, 161, 162, 164, 165, 167, 168, 169, 170, 172, 173, 177, 178, 183, 184, 187, 194, 195, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 214, 215, 222, 223, 226, 230, 231, 232, 233, 234, 240, 242, 243, 244, 246, 247, 248, 250, 252, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268
- Muhammad, Imam, 64  
 Muhammad bin Hatib al-Jumahir, 78  
 Muhammad bin Sirin, Imam, 159, 217  
 Mujahid, 137, 154  
 Munzir, 161  
 Musa (Prophet), 177, 182  
 Muslim, 19, 37, 59, 66, 67, 69, 83, 93, 99, 100, 113, 114, 117, 126, 129, 134, 137, 140, 143, 165, 168, 169, 173, 195, 226, 247, 248, 254, 255, 256, 257, 259, 260, 261, 262, 264, 265, 266, 267  
 Musnad (Ibn Hanbal), 247
- Nafi', 226  
 Nasa'i, 60, 67, 68, 83, 84, 116, 118, 129, 173, 222, 233, 234, 255, 268  
 al-Nawawi, 209  
 Nazianzum, 11  
 Negro, 129  
 Negus, 83  
 Neishapuri, 'Allama, 159  
 Niyog, 7  
 Norman Haire, Dr., 186  
*an-Nur* (Sura), 137, 151

- Oriental (Jews), 181  
 Oung, U. May, 8
- Pagan (Empire), 13  
 Pakistan, 187  
 Pandava, 182  
 Paradise, 18, 20, 111, 118, 121, 267  
 Paul, St., 10, 12  
 Persia, 187  
 Pierre Crabites, 17  
 Pilgrimage, 111, 144, 162
- Qatada, 63, 155  
 Quraish, 97  
 Qur'an, 3, 4, 5, 15, 16, 18, 25, 26, 29, 30, 31, 32, 33, 34, 35, 37, 52, 54, 55, 57, 58, 59, 64, 68, 77, 79, 80, 81, 83, 84, 85, 89, 94, 101, 102, 105, 107, 109, 110, 112, 114, 115, 116, 118, 123, 124, 125, 129, 131, 135, 137, 138, 141, 143, 144, 145, 146, 147, 148, 150, 153, 157, 158, 162, 163, 166, 167, 171, 175, 180, 183, 184, 194, 197, 198, 200, 210, 214, 215, 216, 219, 220, 221, 222, 223, 225, 227, 229, 230, 232, 237, 238, 240, 241, 242, 248, 249, 252, 253, 259
- Rabenu Gershom, 181  
 Rabi bin Sabra, 207, 264  
 Ramadan, 20, 100, 101, 118, 122  
 Razi, Imam, 160  
 Romans, 177, 182  
 Roman (Law), 13  
 Rubai' 134  
 Rubih bint Mu'adh bin Afra, 235
- Sabra bin Ma'bad, 199, 200, 202, 206  
 Safiyya, 92  
 Safiyya bint Shaiba, 92  
*Sahih Muslim* 201, 202, 205, 209  
 Sahl bin Sa'd al-Sa'idi, 82, 127, 167, 258, 259  
 Sa'id bin Jubair, 154, 202, 217  
 Sa'id bin Musayyib, 154, 179  
 Salama bin al-Akwa', 195, 204  
*Satan* (Devil), 12, 16, 18, 135, 138, 139, 169, 266  
 Sati (The rite of), 7  
 Shafi'i, Imam, 62, 63, 64, 67, 70, 168, 176, 200, 202, 249  
*Sharh Sunna*, 102  
*Shari'ah*, 127, 133, 162, 223, 224, 238, 239  
*Shi'ah*, 194, 201, 203  
 Sh'ibi, 178, 217  
 Shu'ba, 165  
 Shudra, 182  
 Shukani, 203  
 Shurahbil bin Hasana, 84  
 Siddiqi, M. Mazheruddin, 173  
 Socrates, 6  
 Sodom (People of), 24, 103  
 Sodomy, 104  
 Solomon (Prophet), 182  
 Southern, 186  
 al-Suddi, 202  
 Sufyan Thauri, 64  
*Sunna*, 200, 255  
 Syria, 95, 151
- Tafsir-i-Baidavi*, 160  
*Tafsir-i-Kabir*, 137, 151, 160  
 Ta'if, 150, 209  
 Talq bin 'Ali, 121  
*Tashahhud*, 88, 89, 260  
 Ta'us, 137  
 Tertullian, St., 11  
 Thabit, 234, 235



- Thauban, 266  
 Thuwaiba, 256  
 Tibrani, 178, 246  
 Timothy (Epistle to), 12  
 Tirmidhi, 19, 20, 25, 67, 78  
 83, 95, 98, 103, 110, 111,  
 120, 121, 126, 127, 128,  
 133, 136, 140, 153, 161,  
 169, 172, 174, 193, 203,  
 232, 245, 247, 256, 258,  
 260, 261, 263, 264, 265,  
 267, 268  
 Tusi, 196  
 'Ubaida bin Sufyan bin al-  
 Harith, 159  
 Ubayy bin Ka'b, 164, 202  
 Uhud, 133, 183  
 'Umar bin 'Abd al-'Aziz, 207  
 'Umar bin al-Khattab, 64, 83,  
 98, 133, 143, 150, 163, 164  
 178, 195, 200, 203, 204, 205  
 209, 210, 220, 235, 236,  
 243, 249, 264  
 Umayma bin Ruqayya, 170  
 Umm 'Atiyya, 134  
 Umm Habiba, 82, 83, 256, 268  
 Umm Maktum, 128, 263  
 Umm Salama, 63, 121, 128,  
 149, 263  
 Umm Sulaim, 133, 134  
 Umm Sulait, 134  
 'Umra, 195  
 United Kingdom, 24  
 'Uqba bin 'Amir, 242, 243, 258  
 Urwah bin Zubair, 64, 206  
 Usama bin Zaid, 99  
 'Uthman, 217  
 Vaishya, 182  
 Van de Velde, Dr., 146, 147,  
 171, 173  
 Vedic, 7, 182  
 Weinberg, 40  
 West, 5, 17, 23, 49, 131, 192  
 Westermarck, Dr., f.n. 12, 29,  
 f.n. 30, 186  
 Western, 22, 25, 35, 137, 145  
 184, 186  
 Yaqub (Prophet), 182  
 Zakhak, 154  
 Zaid bin Harith, 248  
 Zaid bin Thabit, 221  
 Zainab, 92, 245  
 Zainab (wife of 'Abdullah bin  
 Mas'ud) 172  
 Zainab (daughter of Jash), 268  
 Zakat, 141  
 Zoroaster, 177  
 Zoroastrians, 182  
 Zuhri, 63, 137

\*\*\*\*\*



